

U-48 A. M.

### WRITTEN ANSWERS TO QUESTIONS

#### CENTRAL UNIVERSITY FOR TEACHING INDIAN SYSTEMS OF MEDICINE

•142. SHRI P. C. BHANJ DEO: Will the Minister for HEALTH be pleased to state:

(a) whether there is any proposal under consideration by Government to set up a Central University for teaching Indian systems of medicine; and

(b) if so, what is the estimated expenditure to be incurred on this University?

THE MINISTER FOR HEALTH (RAJKUMARI AMRIT KAUR): (a) Such a recommendation has very recently been made by the All India Ayurvedic Convention of State Boards and Councils. It will be examined.

(b) No such estimates have been worked out pending the consideration of the recommendation by Government.

#### PRODUCTION OF INDIGO

78. SHRI M. VALIULLA: Will the Minister for FOOD AND AGRICULTURE be pleased to state:

(a) whether the present production of indigo in the country is sufficient to meet its requirements; and

(b) whether any assistance is being given by Government to the indigo planters; if so, what?

THE MINISTER FOR FOOD AND AGRICULTURE (SHRI A. P. JAIN): (a) and (b). No, Sir.

#### RICE MILLING IN URBAN AREAS

79. SHRI M. VALIULLA: Will the Minister for FOOD AND AGRICULTURE be pleased to state:

(a) whether there is any proposal under consideration by Government to ban rice milling in urban areas; and

2—43 Rajya Sabha/56

(b) if so, when this proposal will be given effect to?

THE MINISTER FOR FOOD AND AGRICULTURE (SHRI A. P. JAIN): (a) and (b). The Rice Milling Committee's recommendations in regard to restrictions on the setting up of new Rice Mills in the country as a whole are at present under consideration.

#### INDONESIAN METHOD OF FISH BREEDING

80. SHRI M. VALIULLA: Will the Minister for FOOD AND AGRICULTURE be pleased to state :

(a) whether the Indonesian method of fish breeding has been introduced anywhere in India; and

(b) if so, where and with what result?'

THE MINISTER FOR FOOD AND AGRICULTURE (SHRI A. P. JAIN): (a) Not Yet.

(b) Does not arise.

#### STOCK POSITION OF FOOD GRAINS IN STATES

81. SHRIMATI PARVATHI KRISHNAN: Will the Minister for FOOD AND AGRICULTURE be pleased to state the stock position of rice and other food grains in the different States in India as on 31st October, 1956?

THE MINISTER FOR FOOD AND AGRICULTURE (SHRI A. P. JAIN): On 31st October. Government had in stock about 339 lakh tons of foodgrains.

#### THE HINDU ADOPTIONS AND MAINTENANCE BILL, 1956—*continued*

MR. DEPUTY CHAIRMAN We will now take up the clause by clause consideration of the Bill.

#### Clause 2—Application of Act

SHRI JASPAT ROY KAPOOR.: Sir 1 move :

[Shri Jaspat Roy Kapoor ] 1. "That at page 17—

(i) in line 11, after the word 'Jngayat' the words 'a Buddhist, a Jaina, a Sikh' be inserted; and

(ii) lines 13 and 14 be deleted." MR. DEPUTY CHAIRMAN: You have also got an amendment to your amendment.

SHRI JASPAT ROY KAPOOR: Yes, Sir. I will move it in an amended form.

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Sir, I move :

2. (as amended) "That at page

2—

(i) For lines land 2, the following be substituted, namely.—

*Explanations.*—The following persons are Hindus by religion : —

(ii) in line 4, the words 'Buddhist, Jaina or Sikh' be deleted."

(iii) in line 6, the words 'Buddhist, Jaina or Sikh' be deleted."

(iv) in line 10, the words 'Buddhist, Jaina or Sikh' be deleted."

MR. DEPUTY CHAIRMAN:

Clause 2 and the amendments are now before the House.

SHRI JASPAT ROY KAPOOR: Mr. Deputy Chairman, Sir the object of my amendments is a very essential and necessary one, and is in keeping with the aims and objects of this measure. The object is to make the phraseology of this clause in keeping with the aims and objects firstly, and secondly in keeping with the language and the short title of this measure. This measure is intended to apply to all Hindus and under the definition of 'Hindus' obviously the intention of the Government is, and rightly, that B<sup>d</sup>Hhists. Jains. Sikhs. Brahmo Samajists, Prarthana or Arya Samajists—all—should be included. That being so. I don't see any necessity for having sub-clause (b) of clause 2 of the Bill to be retained and I would rather suggest that in sub-clause (a)

of clause 2 of the Bill the words which

1 have suggested, namely, Buddhists, Jains and Sikhs, should be inserted. My other amendments are of course of a consequential nature.. I submit that acceptance of my amendment is very necessary in view of the very aims and objects of this measure and in view of the long and short title of this Bill. Part (b) of clause 2, in this view, appears to be absolutely redundant. Sub-clause (a) of clause

2 runs thus :

"This Act applies to any person, who is a Hindu by religion in any of its forms or developments".

Now these are the two important words to be noted—'in any of its forms or developments'. Then it goes on to say :

"including .....".

and lastly :

"Prarthana or Arya Samaj."

I submit that the Buddhist religion, the Jain religion and the Sikh religion are only forms and are developments of the wider Hindu religion. If it were not so, the followers of these religions would obviously not have been included within the purview of this measure. Hinduism, as was rightly said yesterday by my hon. friend Mr. Sapru, has been an expanding religion and a liberal religion with a dynamic force. It has been changing forms and customs and it has been changing from time to time to meet the necessities of the situation, the fundamentals remaining the same. It has never been a static religion. It has a dynamic force behind it and if we really remember what Lord Krishna said to Arjuna on the sacred battlefield of Kurukshetra defining Hindu religion as it were, he said "In whatever form the Lord might be worshipped, the Lord will be attained". So whether one worships God in the manner in which Guru Nanak prescribed or in the manner in which the Tirthankars of the Jains prescribed or in the manner in which Lord Buddha prescribed, obviously according to the definition of the Hindu Dharma by Lord Krishna, they all come within the fold

of Hinduism. So far as Buddhists are concerned, Lord Buddha is considered by Hindus and according to the Hindu religion as the latest incarnation of God. He is the 9th Avatar. The tenth is yet to come. So Buddhists, Jains and Sikhs—all obviously come within the fold of Hindu religion particularly when we mention herein that Hindu religion includes within it all the forms and developments of Hindu religion. I see absolutely no reason why rather than trying to seriously attempt to lessen the number of the various sects within the Hindu folds, we should try to increase their number. We always say that we are against casteism, communalism, sectarianism, etc. That being so, on every possible occasion, we should try to take active steps to lessen the number of sections in the Hindu Society.

MR. DEPUTY CHAIRMAN: Yes.

SHRI JASPAT ROY KAPOOR: I am finishing. I would not have taken even this much time of the House if I had not very serious views on this subject which I have ventured to express in this House more than once. But now here is an occasion when I think this view of mine could be easily accepted by the hon. Minister in charge of the Bill.

SHRI SHRIYANS PRASAD JAIN (Bombay): I am opposing both the amendments.

SHRI K. S. HEGDE. (Madras): It is a mere legislative consistency.

SHRI JASPAT ROY KAPOOR: There is one thing that might be said by the Minister Shri Pataskar that in the other parts of the Hindu Code, we have adopted the very same phraseology as we have adopted here. True, that may be so but if he considers that my suggestion is worth accepting, that fact should not stand in the way of accepting my amendment. It is never too late to be wise and at any subsequent occasion even the previous Acts could be amended but even if they are not, that can hardly affect the substance even of the previous measures.

THE MINISTER FOR LEGAL AFFAIRS (SHRI H. V. PATASKAR): Sir, this is a clause which deals with what is the applicability of the Act and to whom it will apply and this is the same definition as we have passed already in three enactments. Naturally as we find from the discussions in this House, there are people who regard Hinduism as a religion and there are others who don't regard it as such; so I think the way in which this has been put clearly makes out as to who should be the people to whom this will apply. From that point of view I am not going to say whether Shri Lall's arguments are correct or whether Mr. Kapoor's contention is correct. The only point is to whom the Act should apply and that is perfectly clear here and I would not accept this amendment.

MR. DEPUTY CHAIRMAN: The question is :

1. "That at page 1,—

(i) in line 11, after the word 'Lingayat' the words 'a Buddhist, a Jaina, a Sikh' be inserted : and

(ii) lines 13 and 14 be deleted." The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

2. (as amended) "That at page 2,—

(i) For lines 1 and 2, the following be substituted, namely :-

*Explanation.*—The following persons are Hindus by religion :—';

(ii) in line 4, the words 'Buddhists, Jainas or Sikhs' be deleted;

(iii) in line 6, the words 'Buddhist, Jaina or Sikh' be deleted; and

(iv) in line 10, the words 'Buddhist, Jaina or Sikh' be deleted.

The motion was negatived.

MR. DEPUTY CHAIRMAN. The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 6 were added to the Bill.

*Clause 7—Capacity of a male Hindu to take in adoption)*

SHRI JASWANT SINGH (Rajasthan): Sir, I beg to move :—

3. That at page 3, line 28, the words 'or a daughter' be deleted."

SHRI J. S. BISHT (Uttar Pradesh): Sir, I beg to move :—

4. "That at page 3, lines 29 to 37 be deleted."

SHRI V. K. DHAGE (Bombay): Sir, I beg to move :—

16. "That at page 3, at the end of line 33, after the word 'minor' the words 'or the marriage has been dissolved or the wife has been living separately when separation has been granted by the court at the instance of the husband' be inserted."

I also move :

17. "That at page 3, line 35, for the words 'of all the wives' the words 'any of the two wives if there are three wives or any of the three wives if there are more than three wives' be substituted."

SHRI C. P. PARIKH (Bombay): Sir, I beg to move :—

37. "That at page 3, line 30, after the words 'with the' the word 'written' be inserted."

(For amendments Nos. 50 and 51. vide cols. 1020-21 infra.)

MR. DEPUTY CHAIRMAN: The Clause and the amendments are before the House. Most of these points have been covered extensively during the general debate. I hope hon. Members will please be short.

12. NOON

SHRI JASWANT SINGH: Sir, after Dr. Kane had spoken on this subject of Hindu religion. Dr. Kane

who is one of the biggest authorities on this subject in India and who is decidedly the biggest authority on this subject in this House, I have not much to say. I will only repeat what he said, that the adoption by a man of a daughter, even when he has a son, throws overboard the fundamental principles of Hindu law. In addition to that, I would submit to this House that when the original Hindu Code Bill was brought before the Provisional Parliament, there was such a big opposition in the country that Government had to surrender to that public opinion and they had to withdraw the Hindu Code Bill. Thereafter that Hindu Code Bill was entrusted to a Hindu Law Committee and this Committee in its report has dealt with the question of adoption. In that connection in paragraph 3 of part VI of their Report they say:

"No daughter shall be adopted by or to any male or female Hindu."

Sir, public opinion on this subject is very well known and I would respectfully submit that for this House *now* to go back and again pass this clause when such a provision had been thrown out in the previous House and also when the general opinion was against it and when the Report of the Hindu Law Committee definitely says that this cannot be done, at this stage to pass such a law giving the power to adopt a daughter, would be very unfair to all orthodox Hindus who in this country in number exceed by millions and millions those who are either English-educated or who have been so-called reformists. Therefore I oppose this provision and commend my amendments.

SHRI V. K. DHAGE. Sir, my amendment merely seeks to reproduce in clause 7 what has already been included in clause 8 sub-clause (c). It appears to me that in clause 7, when the question was one of adoption by the husband, the proposition which has been included in sub-clause 8(c) where the question was one of adoption by the wife, has not been included. I will just read what sub-clause 8(c) says. Any female Hindu . . .

MR. DEPUTY CHAIRMAN: But we are on clause 7 and your amendment is to clause 7.

SHRI V. K. DHAGE: Yes. Sir I am speaking on my amendment which is to clause 7. And I say what has been incorporated in sub-clause 8(c) has not been incorporated in clause 7. I did not want to expatiate on it as the point would be clear when I read sub-clause 8(c). Clause 8 says :

'Any female Hindu who—

- (a) is of sound mind.
- (b) is not a minor, and
- (c) is not married, or if married, the marriage has been dissolved".

'This proposition is not included when the adoption is by the Hindu male. The position will be clear if I read clause 7. It says :

"Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption :

Provided that if he has a wife living he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind or is a minor." If the marriage is dissolved, I do not understand why the husband should still be obliged to take the consent of the wife in order to take a son in adoption, which is not the case when the wife has to take a son in adoption, under sub-clause 8(c). Therefore, I feel it is merely a logical consequence of what has been included in sub-clause 8(c) to agree to my amendment. I only want a similar proposition to be included in clause 7 as well.

The other point which I have brought out in my amendment No. 17 is this. The consent of all the wives is required under the Explanation to clause 7. It looks as though when a person has more than one wife—and he may have three or four wives—he will have to take the consent of all his wives before a son could be taken

in adoption, and that would be giving the power of veto to any one of the wives. She can say "No" and the adoption cannot take place. This seems to me to be a rather very unfair proposition. It may be in the interest of the son to be taken in adoption and the majority of the wives may be agreeable, but one among them may be against it and she can stop it. That I think will be unfair and therefore I have suggested that we may provide for the consent [ of two or three wives as the case may be so that the interest of the child who is to be taken in adoption does not suffer and we should not give a sort of a veto power to one of the wives to prevent the adoption taking place when the other wives are agreeable to that adoption.

MR. DEPUTY CHAIRMAN: Yes, Mr. Bisht.

SHRI V. K. DHAGE: Sir. May I be allowed to conclude?

MR. DEPUTY CHAIRMAN: Yes.

SHRI V. K. DHAGE: Therefore, I feel that the House should accept the two amendments that I have moved.

SHRI H. N. KUNZRU (Uttar Pradesh): Sir, may I move my amendments?

MR. DEPUTY CHAIRMAN: But none of you were present when I called your names.

SHRI V. K. DHAGE: But I think the House can permit the hon. Member to move his amendments, because the clause has not yet been disposed of.

MR. DEPUTY CHAIRMAN: All right, I will allow it as a special case.

SHRI H. N. KUNZRU: Sir, I move :

50. "That at page 3, line 33, the words 'or is a minor' be deleted."

51. "That at page 3, after line 37, the following be inserted, namely : —

[Shri H. N. Kunzru.]

*Explanation II.*—For the purpose of this proviso no consent given by a wife shall be valid unless the wife has completed the age of eighteen years."

(No. 50 stood in the name of Shri P. T. Leuva also.)

SHRI J. S. BISHT: Sir, in my amendment I say :

4. "That at page 3, lines 29 to 37 be deleted."

MR. DEPUTY CHAIRMAN: Please be brief. We have to finish all the stages by two o'clock and there are some 50 amendments.

SHRI J. S. BISHT: Yes, Sir. The purpose of my amendment is to delete the proviso and the explanation to this clause. The more I have thought over this matter and the more I heard all the arguments, the more am I convinced that a lot of trouble, dispute and litigation will be avoided if you delete this proviso and this Explanation. My proposal is based on the fundamental principle that you must maintain some sort of discipline in society. You have to start that discipline from the smallest unit, that is to say, the family. The authority is with the father in the family. If it is a patriarchal society it is the paterfamilias—the father—and it will be the mother if you have the matriarchal society. But if you proceed on the assertions and allegations of a few educated ladies in the cities, then you only undermine discipline in society and you will be going in for absolute anarchy. There is no equality between a soldier and a captain, no equality between a captain and a general, because that is the order in which society functions. Similarly, in a family there must be somebody who has the final say in all matters. Either have the patriarchal system or the matriarchal system. If you think that women should have the superiority, have the matriarchal system if you can have it.

I have no objection but there will be at least one person who will have

the whiphand, who will have the prizes and the penalties in his hand. If you are going to have the patriarchal system, as you are carrying on under the Mitakshara system, (then the father must have the whiphand in this matter.

The phraseology of this clause is so defective and so vague that there is bound to be great trouble. For instance, as rightly pointed out by my friend, Shri Dhage, a wife may not seek divorce but seek judicial separation. That means that the feelings are very strained and here you completely bar the husband from adopting because she is not going to give the consent at all under any circumstances and you have also not provided that the consent of such a wife will not be needed. You have said in the explanation that where there is more than one wife, the consent of all is needed. As my friend, Mr. Dhage, pointed out, if there are more than one wife, the second wife may not give consent and that will inevitably happen—in 90 per cent, of the cases that will happen—always. Therefore, Sir, I submit that these things should be completely taken out and I can assure my hon. friends that in all well-run families where the relations are good, the husband is bound to consult his wife before adopting. He is bound to adopt with the consent of his wife. It is only the wives who are quarrelsome; who quarrel with their husbands; who create trouble.

They go in for separation and are always picking holes in whatever their husbands do and it is there that trouble begins. In such cases, you must give the whiphand to the husband to adopt whomsoever he likes as his son so that that son may inherit his property. I would, therefore, appeal to my friend, Mr. Pataskar, to accept this amendment and delete this provision. By deleting this provision, we will be avoiding all the troubles and disputes in the future.

SHRI C. P. PARIKH: My amendment is a simple one and it says that the written consent should be there. The consent may be oral or written

and I say that such consent should be written and not oral. If the written consent is not there, there will not be any evidence for the future when a dispute arises. I think for clarity's sake, the hon. Minister should accept that amendment of mine.

With regard to the provision which says that the consent of all the wives should be obtained, I am very firm on this point that the consent of all the wives should be obtained because, if a man has married more than once, he must treat all of his wives equally and must satisfy all of them and take the consent of all. This is very necessary. On that question, I oppose the amendment of Mr. Bisht.

My point is also the same as that of Dr. Kunzru. I say that no man should adopt when his wife is a minor. I go further and say that the consent of the minor wife is necessary. Consent of a minor is doubtful and therefore I have given notice of an amendment to clause 11 which says that no man should be allowed to adopt if a minor wife is living.

SHRI H. N. KUNZRU: I have already moved my amendments Nos. 50 and 51, standing in my name. The purpose of my amendments is only to prevent the husband from adopting a child while his wife is a minor. Shri Dasappa yesterday enquired as to what would happen in the case of a husband who was seriously ill and was not expected to live at all till his wife became a major? He also said that there may be disagreement between them with regard to the child who should be adopted. The proper course in such a case is for the husband and the wife to come to an understanding but in any case, it is clear that it is the wife that will have to bring up the child and not the dying husband. It is obviously necessary, therefore, that no child should be adopted without the consent of the wife so that the child may be properly brought up. If a child is adopted without the consent or against the consent of the wife and is then neglected, the last stage will obviously be worse than the first. I think.

therefore, that it should be laid down that no man should adopt a child while his wife is a minor. The importance of obtaining the wife's consent is so great that it is absolutely necessary that she should be in a position to give a legally valid consent before the child is adopted. If she is against the adoption, then it cannot take place because adoption is not, as my hon. friend, Shri Bisht, supposes, something that affects the husband only; it affects the wife also. A husband and wife live together in the same house and it is quite possible that if an adoption is forced on a wife, it may lead to serious trouble. We want that the married life of a couple should be happy and happiness can be the result only of mutual understanding. I hope, therefore, that Government will raise no objection to this amendment.

DR. P. V. KANE (Nominated): I have to point out that there is some confusion in regard to the minor wife. Under the Indian Majority Act, 18 years is the age of majority but four subjects are excluded from it, dower, divorce, adoption and marriage. So, unless you expressly say that for the purpose of this Act, a minor means one who has not attained the age of 18, it may create confusion. A wife of 15 or 16 will be considered a major under the Hindu law. The moment a woman marries, she is supposed to be a major. Therefore, if we simply say a minor wife, a wife of 16 will not be treated as a minor.

SHRI H. N. KUNZRU: But the Act says that a major means a person who has attained the age of 18. It is laid down in the Bill.

SHRI P. N. SAPRU (Uttar Pradesh): May I just point out that in clause 3 a minor has been defined as a person who has not completed his or her age of 18 years. Therefore, having regard to that particular definition. It becomes necessary for us to say that the minor wife must be below 18.

If I can have two minutes, I will explain my point. I am very strong-

[Shri P. N. Sapru.]

ly in favour of the view that the clause must be retained in its original form. This is a vital matter. This act must be a joint act of the husband and the wife though the initiative may be taken by the husband. That is the meaning of this clause. After all, it is the woman who will have to bring up the child and it is not fair to the child to force it into a family without the consent of the mother. You may be forcing him into a family where he is not wanted give him complexes which in later life may destroy his happiness permanently. I should personally like written consent to be obtained but there are some difficulties. We know we have a large number of villagers in our country who are illiterate and if we say that written consent should be there, that may lead to some difficulty. Otherwise, I have no objection.

SHRI C. P. PARIKH: And register it also.

SHRI P. N. SAPRU: I was in favour of registration. If I may reveal something which happened in the Select Committee, I was in favour of compulsory registration of adoptions but it is difficult to have compulsory registration just now, having regard to the conditions that exist in our country.

SHRI P. T. LEUVA (Bombay): Sir, I have moved my amendment No. 50. With respect to that, we have to consider also the practical effects that are likely to flow. As you know, under the Hindu Marriage Act, the age of marriage has been fixed at 15 and normally a person would wait for some years before he thinks of adopting a child. In a majority of cases, there would not be any adoptions in three years\* time. Practically speaking most of the adoptions would take place after the wife has attained the age of majority but I would agree with the viewpoint of Dr. Kunzru and that is the reason why I have moved my amendment that consent, in order to be effective, must be the consent of a person who has attained the age of majority. Under the Contract Act. the consent of a

minor has no legal value whatsoever and, therefore, if we want to depart from accepted legal principles, there should be strong grounds for it. So far as this law of adoptions is concerned, no reasons have been adduced to say that the consent given by a minor should be effective for this purpose. I would, therefore, strongly urge that so far as this particular purpose is concerned, a minor wife should not be allowed to give a regular consent.

So far as the other amendment of Dr. Kunzru is concerned, I would personally think that that is unnecessary and redundant for the simple reason that the general law would apply. Under the general law, the age of majority would be 18 and any consent given by a person who is below the age of 18 would be without any legal value. Therefore, I personally feel that so far as the explanation is, concerned, it is unnecessary in view of the general law which is available.

SHRI H. V. PATASKAR: There are two kinds of amendments, or rather three kinds. One of them relates to what is practically opposition to the adoption of daughters. In so far as those amendments are concerned, I need not take more time of the House. I had already explained yesterday at great length and I would still appeal to my hon. friends who may object to the adoption of a daughter that no sacrilege is being committed by that section of the Hindu society, who may desire to adopt a daughter, being enabled to do so. It is only an enabling provision and I think I can hardly add anything to what I have already stated. I do not think it is correct to say that the adoption of a daughter never existed in our country; it is entirely a misconception. Of course, adoption of a daughter had been declared not valid by several rulings of the High Court during recent years and that is why we have got accustomed to think like that. I would still urge upon them to see those sastric books like *Dattaka Mimamsa* and others which are as sacred as any other books. We



did allow adoption of a daughter and therefore there is no sacrilege. Those who now object to this should try to accommodate that section of the Hindu society who may like to adopt daughters. There is no question of man and woman here: it is purely a question of social changes. Just as my friends are anxious to preserve for themselves whatever they have been following—and as I said there is nothing done in this Act which would in any way interfere with their sentiments—they should also respect the sentiments of those who may like to adopt a daughter. Considered from that point of view, and for that matter from any point of view, I am sorry I am unable to accept that kind of amendments.

With regard to the consent of the wife also, as I have already said yesterday, this is a normal feature of all laws and it is based on common experience. If we want the family to continue in happy life after adoption is made, then naturally it should be with the consent of the wife. Unfortunately monogamy is far from being practically effective so that there is no one who has got more than one wife. It may take some time and there may be some cases and that is why this provision has been made. We need not therefore lay much stress on this aspect of the question.

With respect to the deletion of the words 'or is a minor' I am now inclined to think—and I would like my friend Mr. Sapru also to consider it because he was the Chairman of the Select Committee—that these words may be omitted. Originally what we wanted to say was that the consent of the wife should be obtained and in the Select Committee we examined cases where possibly the wife may have completely renounced the world or she may be incapable of giving consent. We wanted to provide for such cases, and it is from that point of view that in the Select Committee we inserted all these words. During the discussion it was also mentioned that if she happened to be a minor her consent need not be taken but now

after hearing hon. Members here—and I hope Mr. Sapru also will agree—I think that cases where a man having a minor wife takes a child in adoption would be very rare. If he is an elderly man who has married a young girl, then naturally he would wait for some time in the hope that he would get a natural son. If he is a young man having a minor wife then also he would like to wait. Therefore I am prepared to accept the amendment of Dr. Kunzru where he says that the words 'or is a minor' should be deleted. It is a simple matter and if it is accepted, I think, that probably makes the clause read a little better.

I am sorry, I am not able to accept any of the other amendments.

SHRI V. K. DHAGE: What about my amendment? Will he please say as to why it is not acceptable to him?

MR. DEPUTY CHAIRMAN: He has nothing more to add. Yesterday he has explained it at great length.

SHRI H. V. PATASKAR: For the reasons I have already mentioned, I oppose it.

MR. DEPUTY CHAIRMAN: The question is :

3. "That at page 3, line 28. the words 'or a daughter' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

4. "That at page 3, lines 29 to 37 be deleted".

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

16. "That at page 3, at the end of line 33, after the word 'minor' the words 'or the marriage has been dissolved or the wife has been living separately when separation has been granted by the court at the instance of the husband' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

17. "That at page 3, line 35, for the words 'of all the wives' the words 'any of the two wives if there are three wives or any of the three wives if there are more than three wives' be substituted." The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

37. "That at page 3, line 30, after the words 'with the' the word 'written' be inserted."  
The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

50. "That" at page 3, line 33, the words 'or is a minor' be deleted."  
The motion was adopted.

MR. DEPUTY CHAIRMAN: There is now this amendment No. 51. Is that necessary now, Dr. Kunzru? It seems to be redundant. And clause 3(c) explains who a minor is.

SHRI H. N. KUNZRU: If the Minister for Legal Affairs thinks that the amendment that has been passed would debar a person from adopting a child while his wife is a minor, I shall not press this.

MR. DEPUTY CHAIRMAN: 'Minor' has been defined in da-use 3(c) of this same Bill.

SHRI P. N. SAPRU: This amendment No. 51 has not been circulated to all Members.

MR. DEPUTY CHAIRMAN: It has been circulated.

SHRI H. V. PATASKAR. In my opinion it is unnecessary.

SHRI H. N. KUNZRU: If that is the view of the hon. Minister, I shall not press it.

\* Amendment No. 51 was, by leave, withdrawn.

•For tent of amendment *videcdl.* 1021 *supra*.

MR. DEPUTY CHAIRMAN: The question is :

"That clause 7. as amended, stand part of the Bill".

The motion was adopted.

Clause 7. as amended, was added to the Bill.

*Clause 8—Capacity of a female Hindu to take in adoption).*

SHRI JASWANT SINGH: Sir. I move :

5. "That at page 4, line 4, the words 'is not married or' be deleted."

*(The amendment also stood in the name of Shri C. P. Parikh.)*

MR. DEPUTY CHAIRMAN:  
The clause and the amendment are open for discussion.

SHRI JASWANT SINGH: In regard to my amendment I have already submitted my arguments and in addition I would add a few words. This is an innovation now being adopted that even an unmarried female would be entitled to adopt a child. My main objection to adoption by. . .

MR. DEPUTY CHAIRMAN:  
The hon. Member has spoken at length on this point.

SHRI JASWANT SINGH: I want only to add one sentence to what I said yesterday. I am not repeating what I said yesterday. It is only this that in this country of ours there are plenty of houses of disrepute and with the economic conditions getting worse, probably they will be on the increase all the more and if these women of disrepute—they remain always unmarried—are allowed to adopt girls without any restriction, then I am afraid that immoral traffic in girls will receive a fillip in the country.

SHRI P. N. SAPRU: What about the bachelors and widowers who will be adopting girls?

SHRI JASWANT SINGH. That is a very different matter altogether.

SHRI P. N. SAPRU: Why is it?

SHRI JASWANT SINGH: I am talking of houses of disrepute at the moment.

MR. DEPUTY CHAIRMAN. He is talking of persons of disrepute.

SHRI JASWANT SINGH: They do not have that profession which these houses are supposed to conduct and, therefore, these matters are of a very different character. All that I want to submit is that these houses will take advantage of this legislation and immoral traffic in women will receive a fillip, which will not be conducive to the good of the country. On religious grounds as well as practically speaking, I oppose from both the angles the right of unmarried women to adopt a girl.

SHRI C. P. PARIKH: Sir, I am moving my amendment on this ground that those women who are unmarried, in my opinion, have not a sober opinion of their own. are self-opinionated ..

DR. SHRIMATI SEETA PERMA-  
NAND: (Madhya Pradesh): Ques-  
tion .....

SHRI C. P. PARIKH: .. and they do not consider one man out of thirty-six crores equal or fit for them. I think when this is the case, naturally we must look upon this from a different aspect.

SHRI P. N. SAPRU: It might be the other way about.

SHRI C. P. PARIKH: But the hon. Minister also says the man does not marry because he did not get. ....

SHRI H. V. PATASKAR: No. 1 did not say that.

SHRI C. P. PARIKH: If there are such men, they may be put under the same category. They are also self-opinionated and they remain unmarried on that account. Even if it is not accepted, I want to ask the hon. Minister to say that, and Mrs. Yashodda Reddy also has supported that argument that after the age of 35—and Mr. Dube will support me—

even after the age of 45, she may be allowed to adopt. An unmarried woman should be allowed to adopt unless she is of certain age.

DR. SHRIMATI SEETA PERMA-  
NAND: What about a bachelor?

MR. DEPUTY CHAIRMAN: He has put in another amendment for this.

SHRIMATI T. NALLAMUTHU  
RAMAMURTI (Madras): What is the sanctity attached to the age of 35?

MR. DEPUTY CHAIRMAN:  
Order, order. The hon. Minister is replying.

DR. R. P. DUBE (Madhya Pradesh): On a point of order, I find that this Bill is being pushed through this House.

MR. DEPUTY CHAIRMAN:  
There is no point of order.

SHRI H. V. PATSKAR: I really am sorry that there should have been some excitement over a simple matter like this. After all a spinster is not already a woman with a warped mind, just as a bachelor would not be. As my hon. friend said, if she cannot find a husband from thirty-six crores, cannot the same be said of a bachelor? So, it is not a question like that. It is not difficult to find a wife or a husband. At least there are no complaints. There are difficulties in finding employment and so many other things. But about this Government has received no such complaint. I think we should adopt a rational view, if there is a woman who has not married. I have come across such a lady serving in the Government of India holding a very responsible position, highly educated. She did not marry because her sister died unfortunately leaving some children. She is taking care of the children. She wants to adopt. She has come to me. I say here it is not as if every spinster is going to adopt. There is no harm in having this clause as it is.

MR. DEPUTY CHAIRMAN: He is not accepting the amendment. The question is :

[Mr. Deputy Chairman.]

5. "That at page 4, line 4, the words 'is not married or' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

"That Clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

*Clause 9—Persons capable of giving in adoption*

SHRI V. K. DHAGE: Sir, I move:-

"18. That at page 4, at the end of line 17, after the word 'mind' the words 'or the marriage has been dissolved or the mother has been living separately when separation has been granted by the court at the instance of the father' be inserted."

SHRI H. N. KUNZRU: Sir, I move :

52. "That at page 4, line 15, the words 'is a minor or' be deleted."

53. "That at page 4, after line 17, the following be inserted, name-y:-

*'Explanation.—For the purpose of this sub-section, no consent given by the mother shall be valid unless the mother has completed the age of eighteen years.'*"

*{No 52 also stood in the name of Shri P. T. Leuva.}*

MR. DEPUTY CHAIRMAN.

The clause and the amendments are before the House.

SHRI V. K. DHAGE: This amendment also is on similar grounds as the previous amendment which I have tabled in respect of clause 7. What I am not able to understand is as to why this amendment is not being accepted by the hon. Minister. And has not been able to give any satisfactory reason while replying to the amendment as why this consequential amendment is not being accepted when in clause 8 a similar proposition has been included with regard to

a married wife. I do not think the hon. Minister wishes to give more power in the hands of the wife who is not living with the husband and the marriage has been dissolved, while a similar proposition is not accepted in the case of a wife. I would like the hon. Minister to give me some explanation, so that I may be satisfied on that point. I wish to press m> amendment for acceptance.

SHRI H. N. KUNZRU: My amendment to clause 9 is of the same character as the amendment to clause 7 and is justified on the reasoning that I have already explained. It is not necessary for me, therefore, to go into the matter again. The consent of the wife is necessary not merely when a child is taken in adoption but also when one of her own children is to be given in adoption.

SHRI P. N. SAPRU: That is more important.

SHRI H. N. KUNZRU: This is much more important and no harm will be done if the husband waits for some time to enable the wife to come of age before any of her children is given in adoption to any person. There may be old couples who may be in a hurry to adopt children, but let them then adopt children of persons both of whom are majors. There is no reason why in order to suit the convenience of such people we should disregard the right of the mother and allow the father only to decide as to whether any of the children is to be given in adoption. So, the mother's feelings are deeply concerned in the matter, much more so than those of the father and it is right, just and necessary that the mother should be consulted before any of her children is given in adoption into another family.

SHRI H. V. PATASKAR: With respect to amendment No. 52, I believe it says that the words "is a minor or" should be dropped. Having taken the decision with regard to clause 7, I am prepared to drop the words. I do not contemplate that minor female Hindus are going to adopt children.

MR. DEPUTY CHAIRMAN: I You accept amendment No. 52.

SHRI H. V. PATASKAR: I accept amendment No. 52 with regard to amendment No. 53, it is again redundant.

MR. DEPUTY CHAIRMAN: And Mr. Dhage's amendment<sup>1</sup>

SHRI H. V. PATASKAR: With regard to Mr. Dhage's amendment, even at the time of the last amendment, it was explained as to what happens if there is a judicial separation and all those things. I think these are very rare cases. I think the general principles which we want to follow so far as these are concerned are put in here. I can imagine that when a general law is passed there might be some hard cases. But if we go on trying to make provision for every case, then the principles would suffer. Where I was convinced that it was such an important thing, I accepted it. I do not think that it is necessary in this case and it is only from that point of view that I am not prepared to accept this.

MR. DEPUTY CHAIRMAN:  
The question is :

18. "That at page 4, at the end of line 17, after the word 'mind' the words 'or the marriage has been dissolved or the mother has been living separately when separation has been granted by the court at the instance of the father' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

52. "That at page 4, line 15, the words 'is a minor or' be deleted."

The motion was adopted.

\*Amendment No. 53 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN:  
The question is:

"That clause 9. as amended, do stand part of the Bill."

\*For text of amendment, *vide* col 1033 *supra*.

The motion was adopted.

Clauses 9, "as amended," was added to the Bill.

Clause 10—Persons who may be adopted

SHRI J. S. BISHT: Sir, I beg to move :

6. "That at page 5, in lines 8-and 10, for the word 'fifteen' the words 'eighteen' be substituted."

SHRI V. K. DHAGE: Sir, I beg to move:

19. "That at page 5, at the end of line 3, after the word 'Hindu' the words 'or becomes Hindu' be inserted."

20. "That at page 5, at the end of line 7, after the word 'adoption' the words 'provided consent is taken for such adoption of both if they are majors, or of one if one is a major' be inserted."

21. "That at page 5, at the end of line 11, after the word 'adoption' the words 'provided his or her consent is taken if a major' be inserted."

22. "That at page 5, after line 11, the following be inserted, namely:-

'(v) a child begotten by the adoptive mother by artificial insemination with the consent of the adoptive father if the adoptive father is sterile;

(vi) a child begotten by the adoptive father through another woman with the consent of the adoptive mother if the adoptive mother is sterile."

SHRI C. P. PARIKH: Sir, I beg to move:

«

39. "That at page 5, lines 5 to 11 be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendments, are now before the House.

SHRI J. S. BISHT: Sir, I have said in my amendment that the figure "fifteen" be substituted by "eighteen". I have already said that this figure fifteen years is an arbitrary figure. As Mr. P. N. Sapru has said, the child should be adopted at a very early age and it should be absorbed in the family. In that case put it as seven years because the Penal Code lays down 7, 14 and 21—these are the ages. Up to seven even if he commits a crime, he will go free. But if you are going to put it at fifteen, why not put it at eighteen? Every minor should be eligible for adoption. That is my submission.

SHRI V. K. DHAGE: Sir, there are three or four amendments in my name. One is with regard to 10(i) which says that no person shall be capable of being taken in adoption unless he or she is a Hindu. What I want is, even if a person is not a Hindu and becomes a Hindu at the time of adoption, he should be capable of being adopted. I think it is very necessary because in some of the places where children are available for adoption, they may not be Hindus, they may be of any religion, the religion may be non-Hindu particularly in the foundling homes. I therefore feel that if a child is not a Hindu but is made a Hindu or is converted into Hinduism, he should be capable of being adopted.

MR. DEPUTY CHAIRMAN:  
Do you mean before adoption or after adoption?

SHRI V. K. DHAGE: As I said, if he becomes a Hindu.

MR. DEPUTY CHAIRMAN: Then, if he is a Hindu, there is no question at all. He must be a Hindu at the time of adoption. A few minutes earlier if he is a Hindu, that will do.

SHRI V. K. DHAGE: If that is the case, I do not press for that. If the meaning is clear that way, I will withdraw.

Regarding my second amendment, we are always thinking in terms of the consent of the person who is given in adoption and the person who is taking in adoption, but if a person happens to be of the age of eighteen, we do not say whether he is consenting to be adopted by the other person, whether he is willing to give up his family in which he is born and go into another family, without his consent being taken. Then sub-clause (iii) and sub-clause (iv) do not take into consideration at all the consent of the person, if he happens to be a major, whether he likes to be adopted by the adoptive father. Not only that, if he is a married person, his wife also goes into another family on account of adoption. I feel, Sir, that if the person to be taken in adoption is a major, his consent and his wife's consent, if she is a major, should be taken for the purpose of being sent into another family. That is very essential and that should be acceptable to the hon. Minister.

DR. SHRIMATI SEETA PERMA-NAND:  
Also consent of both the parents.

SHRI V. K. DHAGE: As to who will give this consent is regulated by clauses 7 and 9, and so on. But here I am concerned with only the consent of the person to be adopted, if he happens to be a major.

. Then with regard to my other amendment, as I have stated in my speech previously, we should be able to permit a child to be adopted which is begotten by the adoptive mother by artificial insemination with the consent of the adoptive father if the adoptive father is sterile, and similarly a child begotten by the adoptive father through another woman with the consent of the adoptive mother if the adoptive mother is sterile. I think it is a very sensible proposition and I had dealt with it yesterday in my speech, and I need not dilate further on that point, but this is a thing which is permitted by the Hindu Shastras and things of this type have taken place. The Hindu Shastras regard it

as necessary in order that one may be able to perform religious rites. If adoption is permitted from another person's family, then adoption can be one of his own and this should be possible. I think this proposition is a very sensible one and in accordance with the Hindu Shastras. This proposition may be accepted. There is nothing barring this if it takes place in accordance with the law of our country.

SHRI C. P. PARIKH (Bombay): Sir, I am in favour of deleting subclauses (iii) and (iv). If there is no sanctity attached to the figure of fifteen, I may as well say that there is no sanctity in the figure of eighteen also.

There should be no age limit prescribed at all, because we must understand that the consent of the person who is adopted is always necessary. Therefore this limit is not necessary. When the other communities with their customs and usages have no such age restriction, naturally, Sir, and when we are laying down a law applicable to all the communities, it is necessary to have a general law. If the man does not want to be adopted, then it is well and good for him, and if he chooses he does it with his eyes open. But it is no use putting restrictions in this way. When we put restrictions, we are making the law not as broad as it should be. As regards customs and usages, the Jain community is one of the most important communities in India, and they are having this custom without restriction. Why should you put restrictions in the case of other communities? I am unable to understand this.

With regard to sub-clause (iii), a married person cannot be adopted. Even if he is married at seventeen, he cannot be adopted. What is this? I am unable to understand this. There is a condition in clause 11 that the difference of age should be twenty-one, and when the difference in age is twenty-one, that itself is a sufficient safeguard that very elderly persons will not be adopted. As regards elderly persons to be adopted, the hon.

Minister said yesterday that in some cases a whole family will be adopted. I think this is only talking on theory, because the consent of all the people will be necessary if they are to be adopted. If they are minors, the consent of the guardian is necessary. Therefore, it is no use saying that a whole family will be adopted. It is not a proper argument. If married persons are allowed to be adopted in the Jain community, why not in others? We want to make this law applicable to as many communities in India as possible. Therefore, we must have the least number of restrictions possible. Then the point was raised of adoption by widows who are twenty-five or thirty-five. But the difference in age must be twenty-one: that is appearing in sub-clause (iv) of clause 11. These are imaginary things. The difference in age will be twenty-one. The person adopted, whether male or female, will be twenty-one years younger.

I think these two sub-clauses are very restrictive clauses and they should be omitted.

SHRI H. V. PATASKAR: Sir, with regard to this clause 10, I believe there is some misunderstanding about it. This relates to persons to be adopted. The wording is "he or she is a Hindu". I need not further say whether he has recently become a Hindu or just becomes a Hindu. He is a Hindu after all. Therefore, I think it is correctly drafted.

MR. DEPUTY CHAIRMAN: If he is converted into Hinduism before adoption, can he be taken in adoption?

SHRI H. V. PATASKAR: Sir, I did not want to take the time of the House. Some people do not regard Hinduism as a religion at all. There are other people who think that everybody in India is a Hindu. The point is it is a sufficient indication, and we need not travel into all those niceties and complications. I think "if he or she is a Hindu" is a sufficient indication. Mr. Dhage need not have any fear on that score.

[Shri H. V. Pataskar.] -

"He or she has not already been adopted"—I think that is already accepted.

Now, Sir, as I stated yesterday, I want to point out to hon. Members that there has been a tendency ever since 1918 or thereabout for all countries to pass adoption laws. Naturally, the whole idea of adoption is

..... {*Interruption*} May I make a request to my hon. friends just to lend some ear to what I am saying ? {*Interruption.*} Will they just please try to listen to me? Because the thing is that I am not able to understand what they say. So the point is "..... he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption." As I was just pointing out there are many countries in the world, particularly in the western part, which, after 1918, are finding it necessary to pass adoption laws. It is to serve the social need. There is no question of any religion. In the way in which we are progressing, these social problems of orphans etc. are there. They need somebody who should take care of them. Wherever there is that tendency, they have to make adoptions of unfortunate persons.

But naturally what Shri Parikh was pointing out is something really different. What does it mean? It is not adoption, for this particular purpose from this point of view. It is more or less a religious thing. Therefore, an attempt is made in this Bill toward it. So far as the particular communities and their feelings are concerned, whether it is religious or not, I will not enter into that question. But for those communities which really by custom have got certain beliefs and do want to have an adoption of married people, we have provided that exception for them. If my esteemed friend thinks that it is such a good thing and it shows the superiority of that particular community, why not give this good thing to other people, instead of saying, "Let me keep this

good thing for myself?" I have never got a demand from anybody. Now, because of custom or usage some wish that they should be allowed to adopt married persons. {*Interruption.*} I am very glad that he has got such a good feeling for the other communities and he wants to extend to them the benefits; but the benefits should also not be forced on them. Therefore, so far as these communities are concerned where the custom is such, we are going to preserve it. We should not create any disturbance with respect to those people who have to make adoption according to their own beliefs. That is the idea on which we are proceeding.

SHRI C. P. PARIKH. May I ask the hon. Minister for one explanation? Is he going to allow persons to circumvent this by their own customs and usages?

SHRI H. V. PATASKAR: I think people will have a better view of things than trying to get themselves converted. We believe in talking of becoming Buddhists and there may be others thinking of becoming Jains. But I am not legislating for such things.

MR. DEPUTY CHAIRMAN:  
The question is :

6. "That at page 5, in lines 8 and 10, for the word 'fifteen' the word 'eighteen' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

19. "That at page 5, at the end of line 3, after the word 'Hindu' the words 'or becomes Hindu' be inserted."

Those in favour of amendment No. 19» by Shri Dhage . . .

SHRI V. K. DHAGE: Sir, in view of the explanation given by the Hon. Minister, I withdraw that because there is no . . .

MR. DEPUTY CHAIRMAN:  
All the amendments'.

SHRI V. K. DHAGE: No, only No 19.



MR. DEPUTY CHAIRMAN: I have already put it to vote.

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

20. "That at page 5, at the end of line 7, after the word 'adoption' the words 'provided consent is taken for such adoption of both if they are majors, or of one if one is a major' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

21. "That at page 5, at the end of line 11, after the word 'adoption' the words 'provided his or her consent is taken if a major' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN. The question is :

22. "That at page 5, after line 11, the following be inserted, namely: —

(v) a child begotten by the adoptive mother by artificial insemination with the consent of the adoptive father if the adoptive father is sterile;

(vi) a child begotten by the adoptive father through another woman with the consent of the adoptive mother if the adoptive mother is sterile."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

39. "That at page 5, lines 5 to 11 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

"That clause 10 stand part of the Bill."  
3—43 Rajya Sabha/56

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11—*Other conditions for a valid adoption*

SHRI J. S. BISHT: Sir, I move :

7. "That at page 5, lines 23-24, for the words 'the adoptive father is at least twenty-one years older than the person to be adopted' the words 'such female has not completed the age of nine years' be substituted."

8. "That at page 5. lines 26-27, for the words 'the adoptive mother is at least twenty-one years older than the person to be adopted' the words 'such male has not completed the age of nine years' be substituted."

9. "That at page 5, after line 35, the following further proviso be inserted, namely: —

"Provided further that the adoption is registered within three months of the actual giving and taking of the child to be adopted."

[Nos. 23-24 (Shri V. K. Dhage)—*haired.*]

SHRI V. K. DHAGE: Sir, I move :

55. "That at page 5, line 19, after the words 'Hindu Son' the words 'or son's son or son's son's-son' be inserted."

56. "That at page 5, line 20, after the word 'daughter' the words-'or daughter's son' be inserted."

(Amendment No. 55 also stood in the name of  
Shri H. N. Kunzni.)

SHRI C. P. PARIKH: Sir, I move:

40. "That at page 5, line 23, after the words 'at least' the words 'forty years old and' be inserted."

41. "That at page 5, line 26, after the words 'at least' the words 'thirty five years old and' be insert-

[Shri C. P. Psrikh.]

42. "That at page 5, after line 35, the following be inserted, namely :-

'(vii) registration of adoption should be made within one month of giving and taking of the child.'"

SHRI P. T. LEUVA: Sir, I move my amendment, but I want the words 'daughter's son' to be dropped out.

MR. DEPUTY CHAIRMAN: 'Daughter's son' to be dropped out? You move it as amended.

SHRI P. T. LEUVA: Sir, I move :

54. "That at page 5, for lines 14 to 17, the following be 'substituted'. namely : —

'(i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son, or son's\* son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption.'"

SHRI H. N. KUNZRU: Sir, I move

57. "At page 5, line 20. after the word 'daughter' the words 'or son's daughter' be inserted."

SHRI C. P. PARIKH: Sir, I move:

58. "That at page 5, after, line 35. the following be inserted, namely :-

'(vii) the wife of the adoptive person should be above eighteen years of age.'"

MR. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

SHRI P. T. LEUVA: Sir, my only purpose in moving this amendment (No. 54) is that I would like to restore the position as it is today under the Hindu Law. The purpose of adoption is that a person wants to continue his line for the purpose of religion, marriage as well as temporal purposes. If a person has a son, the

question of adoption does not arise. In the absence of a son, if he has wM a grandson or a great grandson, the purpose for which adoption is necessary is already fulfilled and therefore, it would be quite proper that, if a person has got a son's son or a son's son's son living, he should not have the right of adopting a son to himself. Recause the moment a son is adoped, there are other consequences of adoption that follow and that would also deprive the son or the grandson who are living of their very legitimate right, t would, therefore, submit that the legal position which has stood the test of time for a number of years should not be disturbed unless there are very strong reasons to do so. I, therefore, urge upon the hon. Minister to accept my amendment which only represents the Hindu Law as it stands today as far as adoption is concerned.

SHRI C. P. PARIKH: Sir, I say that this clause is the pivot of the whole Bill. Therefore, I say that as regards the difference in age which is put down as twentyone between the adoptive persons and the adopted, the difference is very good. But I would submit that the minimum age should be put down for the adoptive persons, male as well as female. As regards the male the minimum age which I wish to put down is 40, that is, no male person shall adopt a child unless he himself is aged 40.

MR. DEPUTY CHAIRMAN: And 35 for women.

SHRI C. P. PARIKH: No woman shall adopt a child unless she is 35 because, I think, till the age of 35 or 40, there is a marriageable period and persons are likely to have children. I am putting the minimum. I would put the minimum only as 40 and 35. And if you want to raise I that minimum, as Dr. Dube said. <sup>1^</sup>> ! 40, I am not at all aeainst it: but j the minimum should be 40 and 35. i These are the two principal points | because there may be so many rnst-i ances happening under this aee I which will make adoption not happv <sup>1</sup> and persons who have adopted repent

of it. Therefore, I have to put down this age.

1 P.M.

Then, Sir, the other two amendments which I have moved are very small. In this clause which is the governing clause in the whole Bill, I suggest that there should be a provision that the wife of the adoptive person should be above eighteen years of age.

There is one more amendment of mine in which I have suggested that the registration of adoption should be made within one month of giving and taking of the child. Sir, this is a very important point that all these adoptions should be registered. When there is the registration of births and deaths, why should there not be registration of adoptions as well? I therefore request the hon. Minister to accept my amendments.

SHRI J. S. BISHT : Mr. Deputy Chairman, my amendment No. 7 is with regard to sub-clause (iii) of clause 11, and my amendment No. 8 is with regard to sub-clause (iv) of clause 11.

Now, Sir, with regard to these two amendments, I would like to repeat what I have already said before. This procedure is very cumbersome and will lead to a lot of litigation. It says that "-----the adoptive father is at least twentyone years older than the person to be adopted." Now as the hon. Members know, there is already a lady elected from Andhra Pradesh, and I am told that there is litigation going on challenging that election on the ground that she has not reached the age of 30 years. (*Interruption.*) That election petition is pertaining to Shrimati Yastioda Reddy, and it is still pending. So, Sir, wherever any interests are involved and wherever any property is involved, there is always that litigation. Therefore I suggest, Sir, that the words 'such female has not completed the age of nine years' should be there. In that case it will be certain that the adopted child, whether male or female, is really a minor child, that is to say,

below the age of nine years. I therefore appeal to my friend, the Minister for Legal Affairs, to reconsider this point. I am sure that he is not bound hand and foot this time, as he was last time when we were considering the Hindu Succession Bill.

SHRI P. N. SAPRU: On a point of order, Sir. This amendment is out of order, because we have already accepted clause 10.

SHRI J. S. BISHT: It has nothing to do with that. It is quite independent.

SHRI P. N. SAPRU: We have already passed clause 10.

SHRI J. S. BISHT: I am here simply laying down the age of 9 years. What I am saying, Sir, is that the hon. Minister this time was not the Chairman of the Select Committee.

SHRI P. N. SAPRU: May I just explain my point of order, Sir? We have already passed clause 10, and in that clause the age of the minor has been fixed at 15 years. Now we are going back on that clause.

SHRI J. S. BISHT: This adoption is of an opposite sex.

Clause 11 deals with . . . . .  
(*Interruption.*)

MR. DEPUTY CHAIRMAN: Anyway, we have already accepted clause 10 and we have already fixed the age of 15 years. Now this question of nine years does not come in at all. I am sorry. I cannot accept your argument. Therefore, I rule your amendments (No. 7 and No. 8) to be out of order.

SHRI J. S. BISHT: Then, Sir, I come to my amendment No. 9, which reads as follows :

"That at page 5, after line 35, the following further proviso be inserted, namely : —

'Provided further that the adoption is registered within three months of the actual giving and taking of the child to be adopted.' "

[Shri J. S. Bisht.]

With regard to this amendment, my friend says that although it is very desirable to have these things, yet there are certain difficulties. I do not know what those difficulties are because the Transfer of Property Act is in force throughout India, and it lays down that any transfer of immovable property of a value of Rs. 100 or more has got to be compulsorily registered. Today, Sir there is no immovable property that can be bought for Rs. 100, which means that every transfer of immovable property has got to be registered, irrespective of the fact whether you are living in a village or in a city. Now where adoption is concerned, it is a matter of big property. You are transferring the child from one family to another, and he ceases to have any interest in the property of his father, and he acquires a new status in the family of the adoptive father. That is why I have suggested the words 'within three months'. If he is living in a rural area, he need not have it registered then and there. He can do it within three months. He can get it registered quite conveniently. And I think there will be no difficulty about it.

MR. DEPUTY CHAIRMAN: That will do.

SHRI H. N. KUNZRU: Sir, the conditions for a valid adoption are given partly in clause 10 and partly in clause 11. Now clause 11 (i) says that "if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son (whether by legitimate blood relationship or by adoption) living at the time of adoption." And what I propose is to insert after the words 'Hindu son' the words 'or son's son or son's son's son'. That is to say, if there is a male child in the family, there is no reason whatsoever for the adoption of another male child. This is the present Hindu law, and I see no reason why we should depart from it. I pointed out yesterday what the undesirable effects of the provision in the Bill may be.

A father may be displeased with his son or with his daughter-in-law and after his son's death although he has a grandson, he adopts a child in order to deprive his grandson of some of his rights. I don't think this is desirable from any point of view, secular or religious. Consequently I think that it should be stated that if a man has a grandson or great grandson living, he should not be allowed to adopt a son. It is also laid down in clause 11 :

"If the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have any Hindu daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption."

What I suggest is if the son's daughter is living, he should not be allowed to adopt a daughter. The argument in this case is the same as in the previous case. There being a daughter in the family, there is no reason for adopting another daughter and the daughter, when married, will be in the same position as the granddaughter when married. There is therefore no advantage whatsoever in adopting a daughter when there is a grand-daughter in the family.

SHRI H. C. DASAPPA (Mysore): Why not son's son's daughter?

SHRI H. N. KUNZRU: You can add that. It did not strike me. But if the Chair permits a new amendment, these words can be added—son's daughter or son's son's daughter.

AN HON. MEMBER: That will equalise.

MR. DEPUTY CHAIRMAN:  
Yes, that can be done.

SHRI V. K. DHAGE: My amendment is the same as Dr. Kunzru's so far as No. 55 is concerned as it stands in the names of both of us and I don't have to add to what has been said in this regard. I suppose the amendment of Dr. Kunzru is with regard to the son's daughter but I would also like

to insist that if there be a daughter's son also alive, it is not necessary that he should be allowed to adopt another daughter; otherwise it will deprive him. The present Hindu Law also recognizes that if there be no son, then a daughter's son is required to perform to grandfather all the religious ceremonies. If that be the case, I think you should not allow the adoptive father to adopt a daughter when there is a daughter's son already living. This, if accepted, will meet the position.

SHRI H. C. DASAPPA: I entirely agree with Mr. Kunzru's amendment with the further addition.

MR. DEPUTY CHAIRMAN:  
I have already admitted that.

SHRI H. C. DASAPPA: Daughter's son in Hindu Law is called Dauhi-tra . . .

SHRI P. N. SAPRU: I entirely agree with Mr. Kunzru.

SHRI H. V. PATASKAR: This clause lays down some of the conditions for the validity of adoption and so far as the first conditions is concerned, it means that if the adoption is of a son the adoptive mother or father by whom the adoption is made must not have a Hindu son living at the time of adoption. I am prepared to accept an amendment here that if he has got also a son's son or son's grandson living, that is the amendment of Dr. Kunzru or Mr. Leuva . . .

MR. DEPUTY CHAIRMAN: Which one are you accepting?

SHRI H. V. PATASKAR: No. 54 so far as ....

SHRI J. S. BISHT: There is some difficulty in No. 54. You don't allow him to adopt if he has a daughter's son.

MR. DEPUTY CHAIRMAN: I That is admitted. It is amended. Number 54 (0 as it was with the omission of daughter's son, you are going to accept?

SHRI H. V. PATASKAR: Yes, I accept. In order that people may not have any misunderstanding I said that so far as (i) is concerned. I am prepared to admit that if there is a son's son living or son's grandson living it should not be allowed. I will say straight way that in spite of all the powers of persuasion, limited as they are at my disposal. I make it clear that my desire is that in spite of all sorts of things which may or may not be said against this measure, I have tried to do my best to conform to the existing Hindu Law and respect the sentiments of those who are following the present Hindu Law in the matter of adoption and it is from that point of view that I accept the amendment, namely, the addition of the son's son and son's grandson, though left to myself I would have said that adoption is a matter to be left to the people. But having conceded that position that I want, so far as it is humanly possible to respect all the existing sentiments and traditions, in spite of all that I have done, I have not been able to persuade some of those who, for reasons best known to themselves, don't want to look at this Bill with favour. It is in that spirit that I accept this amendment, out of respect for the sentiments of those people.

SHRI KISHEN CHAND (Andhra Pradesh): May I point out that the word grandson should not be used. It should be son's son's son.

SHRI H. V. PATASKAR: Has he any objection to it being used even for brevity? In the amendment it will be son's son's son. As mentioned by Mulla in the Hindu Law, that is being repeated in this. Son's son's son, as Mulla has laid down, is there.

I will go to the next point that if the adoption is of a daughter, the adoptive father or mother must not have any Hindu daughter living. I am told that there is an amendment which mentions that instead of a daughter, there might be a son's daughter. As a matter of fact, I think the two things don't stand on the same footing.

MR. DEPUTY CHAIRMAN Son's daughter and also son's son's daughter.

SHRI H. V. PATASKAR: This ' thing does not stand on the same situation as admitting a son's son or son's son's son. There, I am going to concede certain existing state of things. Here when a man is going to adopt a daughter, he may not have a daughter because if a daughter is living, he should not be allowed to adopt another daughter but it may be that the son may be separated from him. He might be away. The majority of the people and Members seem to be inclined to think that if there is a son's daughter, the man should not be allowed to have another daughter. I am prepared to accept that but I think it would not be desirable to go further. Therefore I am prepared to accept the son's daughter.

MR. DEPUTY CHAIRMAN: Not beyond?

SHRI H. V. PATASKAR: No.

SHRI V. K. DHAGE: What about the daughter's son?

SHRI H. V. PATASKAR: I go to sub-clause (iii). There is a list of amendments by Mr. Parikh. He wants to lay down that no male below 40 and female below 35 should be allowed to adopt. This is a matter which can be debated and argued on grounds medical and legal and what not but the legislation as it is now is all right. The more the things you want to introduce in a legislation, the more complications it will lead to. Therefore I am sure and I can assure my hon. friend Mr. Parikh that human motives will always operate . . . .

DR. SHRIMATI SEETA PERMANAND: I want to ask whether it will apply to ....

*(Interruption.)*

SHRI P. N. SAPRU: May I point out that there is a minimum age.

MR. DEPUTY CHAIRMAN: Let him finish.

SHRI H. V. PATASKAR: I am not in a position to accent that amendment. I think he need not have any fear that too many of younger age people will go on adopting.

MR. DEPUTY CHAIRMAN: What about registration?

SHRI H. V. PATASKAR: What is meant by registration by Mr. Bisht is different from what is suggested by Mr. Parikh. Mr. Bisht wants that just as there are births and deaths registration, there should be some provision for registration here also. What my friend Mr. Bisht wants is—and I see the force of his arguments—that probably if you want to have, under the Transfer of Property Act, a document regarding a property worth Rs. 100, it ought to be registered for being valid. Why not apply it to the transfer of human beings also? But the whole question is that at present so far as the law of adoption is concerned, it is already very loose—if I may say so—and probably complications have been introduced on account of several factors upon which I need not dilate at this stage but if you want to again put a further clog by saying that there shall always be registration, I think there will be more objections

SHRI LAVJI LAKHAMSHI (Bombay): You are taking away the religious ceremony.

SHRI H. V. PATASKAR: I am not taking away that. I never thought that even a learned person like him v, ill misunderstand. I am going to preserve everything that people want to do by way of custom or religious practice. What is there here to show that I am going to prevent a "Datta Homa" or taking a child from the same Gotra or same family. As a matter of fact, I believe if registration is mentioned here, it would be a clog. Probably a stage may come in society when people get out of communal and religious feelings which at times create some prejudices. And then the time be ripe when we can have such a provision. But at this stage I do not think we should put in a provision for compulsory registration.

SHRI J. S. BISHT: Why not drop the proviso 7

MR. DEPUTY CHAIRMAN: What about the daughter's son?

SHRI H. V. PATASKAR: Let us stop the list here.

DR. P. V. KANE: May I know whether the Minister is not going to accept the suggestion that the adoption should be registered within three months after it had taken place?

MR. DEPUTY CHAIRMAN: He is not prepared to accept it.

SHRI H. V. PATASKAR: I myself would have liked it. but the time I feel, is not yet ripe.

DR. P. V. KANE: My suggestion was that you may put it in and find out some penalty if it is not complied with.

MR. DEPUTY CHAIRMAN: But he is not prepared to accept it.

The question is:

"That at page 5, after line 35 the following further proviso be inserted, namely: —

'Provided further that the adoption is registered within three months of the actual giving and taking of the child to be adopted.' "

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

40. "That at page 5. line 23. after the words 'at least' the words 'forty years old and' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

41. "That at page 5. line 26. after the words 'at least' the words 'thirty-five years old and' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

42. "That at page 5, after line 35. the following be inserted, namely : —

'(vii) registration of adoption should be made within one month of giving and taking of the child.' "

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

54. "That at page 5. for lines 14 to 17, the following be substituted, namely : —

'(i) if the adoption is of a son. the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son. ,iriiiutfr\*n."w snn- or son's son's son (whemer by legitimate blood relationship or by adoption) living at the time of adoption'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: Amendment No. 55 of Shri H. N. Kunzru is to the same effect and so it is barred.

The question is:

56. "That at page 5, line 20, after the words 'daughter' the words 'or daughter's son' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Then comes amendment No. 57 of Dr. Kunzru.

Does the hon. Minister accept it?

SHRI H. V. PATASKAR: Yes. Sir.

MR. DEPUTY CHAIRMAN: The question is :

57. "That at page 5, line 20. after the word 'daughter' the words 'or son's daughter' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN:  
The question is :

58. "That at page 5, after line 35, the following be inserted, name-ly:-

"(vii) the wife of the adoptive person should be above eighteen years of age."

The motion was negatived.

MR. DEPUTY CHAIRMAN :  
The question is :

"That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12—*Effects of adoption*

MR. DEPUTY CHAIRMAN: There are no amendments proposed to clause 12.

Clause 12 was added to the Bill.

Clause 13—*Right of adoptive parents to dispose of their properties*

MR. DEPUTY CHAIRMAN: There are two amendments proposed to clause 13.

SHRI J. S. BISHT: Sir, I move :

10. "That at page 6, line 14, after the word 'contrary' the words 'between the person adopting and the person giving a child in adoption, be inserted."

DR. P. V. KANE: Sir, I move:

25. "That at page 6, line 14, after the word 'contrary' the words between, 'the person adopting and the person to be adopted or the person giving in adoption or the guardian of the person to be adopted' be inserted."

MR. DEPUTY CHAIRMAN: Clause 13 and these two amendments are now for discussion.

SHRI J. S. BISHT: Sir, I have suggested and insertion of the words "between the person adopting and the

person giving a child in adoption" in this clause. The provision says :

"Subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer *inter vivos* or by will."

It is obvious that this wording is vague, for we do not know what is meant by this word "agreement" here. Is it to be an agreement between the adoptive father and his son or between the adoptive mother and her son or what. So it should be clarified as to between whom this agreement is to be. I submit that this agreement can only be between the person adopting and the person who gives in adoption and that is what my amendment says.

AN HON. MEMBER : What if he is a married person or a major?

SHRI J. S. BISHT : No. here the age has been fixed at fifteen. So it can be only between the person who gives in adoption and the person who takes the child in adoption.

DR. P. V. KANE: I have already stated the reasons for which I have made this suggestion. I want to make the wording clear and so I would request the hon. Minister to accept this amendment.

SHRI H. V. PATASKAR: Sir, before I come to the wording of this clause 13, I will explain the object of this particular clause. The object of this provision is to see that adoption does not deprive the adoptive father or mother of the power to dispose of the property by will. That has to be made clear and that is the object of this particular clause. Merely because a person adopts some child, it should not deprive him of the right to dispose of his property. If you read the whole clause the object will be clear. According to the custom among Jains the adopted boy is a major. Then naturally he may say "I have been adopted by you. So whatever property you have, please do not dispose of



the whole of it, but keep something for me." The case may be of that kind. But suppose there is the other case where the boy is a minor. If he is only 15 years of age, he is a minor and so incapable of entering into an agreement. So between whom will the agreement be? It will be between the person giving in adoption and the person taking in adoption. Suppose there is a rich man and he wants to take a son in adoption from the family of the parents of the child. Those parents may be poor, but they cannot receive anything, because we have made such payments penal. But he may wish his son, though born in a poor family, may be adopted into the rich family and get the benefit of it and he may have some agreement with the adoptive father, that something be left to this son. So you have to look at these wordings keeping in view the purpose, the object, with which this provision is made and when it is viewed in that context, I think there can be no difficulty. It may be that the contracting party is a maior—the adopted person. But in certain cases it may be the person who gives the son in adoption.

SHRI H. C. DASAPPA: Or the guardian.

SHRI H. V. PATASKAR: We have also made a provision that the guardian may do it. Supposing an adoption is made from an orphanage. The guardian may be giving away a minor but he may say that he does not want anything but that the child should have some property, that the man should not adopt the child today and dispose of the property the next day. If there is a valid legal binding contract to the contrary, it is a different matter.

SHRI J. S. BISHT: : What I want to know is : Suppose a man gives his son in adoption and enters into a contract at that time to that effect with the adoptive father. Will that be valid?

SHRI P. N. SAPRU: Yes.

SHRI J. S. BISHT: How? You say, "Subject to any agreement" that «nay mean anything.

MR. DEPUTY CHAIRMAN:  
He is not accepting your amendment.

The question is:

10. "That at page 6. line 14, after the word 'contrary the words 'between the person adopting and the person giving a child in adoption' be inserted."

The motion was negatived.

SHRI V. K. DHAGE: I do not know whether we have a quorum? At least for purposes of voting, there should be a quorum.

SHRI P. N. SAPRU: I think we might disperse for fifteen minutes. Sir.

MR. DEPUTY CHAIRMAN: We can't.

SHRI H. C. DASAPPA: The other Bill will be over in half-an-hour.

MR. DEPUTY CHAIRMAN:  
No. That expires tomorrow and it has to receive the President's Assent tomorrow.

SHRI P. N. SAPRU: Fifteen minutes would do, Sir.

MR. DEPUTY CHAIRMAN: The hon. Members take full time in discussion and they do not also keep the quorum. Still, we have got to finish the Bill.

SHRI H. C. DASAPPA: The thing is that we cannot do justice with a starved stomach.

MR. DEPUTY CHAIRMAN: That is why I requested yesterday hon. Members to keep the quorum.

DR. R. P. DUBE: We are going at such a high speed with this Bill.

MR. DEPUTY CHAIRMAN: I am sorry. Dr. Dube. Seven hours were allotted for this Bill and we have taken more than that.

DR. R. P. DUBE: The time allowed is seven hours for a Bill which is started from here.

MR. DEPUTY CHAIRMAN: There is quorum now. The question is:

25. "That at page 6, line 14, after the word 'contrary' the words 'between the person adopting and the person to be adopted or the person giving in adoption or the guardian of the person to be adopted' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

*Clause 14—Determination of adoptive mother in certain cases*

SHRI C. P. PARIKH: Sir, I beg to move :

43. "That at page 6, line 17, for the word 'she' the words 'the wife' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

SHRI C. P. PARIKH: I will say one or two words about this. The words are "Where a Hindu who has a wife living adopts a child, she shall be deemed to be the adoptive mother". I think the word "she" is not proper and I have suggested the word "wife" in the place of the word "she". "Hindu", "wife" and "child" are the three words that appear and "she" does not perhaps represent the "wife", the middle word. If this is the legal phraseology, I will have no objection but I want an assurance from the hon. Minister in this regard.

SHRI H. V. PATASKAR. I think it is all right as it is. "Where a Hindu who has a wife living adopts a child.....". The husband cannot be the "she" and the child cannot be the "she" and so, it relates only to the wife. I do not think there is anything wrong there.

SHRI C. P. PARIKH: Then, I beg to leave to withdraw this amendment.

♦Amendment No. 43 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN:  
The question is, :

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15 was added to the Bill.

*Clause 16—Presumption as to register-ed documents relating to adoptions*

SHRI J. S. BISHT : Sir, I beg to move :

11. "That at page 6, line 37. the words 'unless and until it is disproved' be deleted."

MR. DEPUTY CHAIRMAN:  
The clause and the amendment are now before the House.

SHRI J. S. BISHT: I only want to delete the words "unless and until it is disproved" added by the Select Committee. The clause as it stood originally was all right. The addition of these words has put an unnecessary burden on the people and a loophole is being created there which, I think, is not necessary at all. I think it will be better if these words were to be deleted.

SHRI P. N. SAPRU: I do not think, Sir, that the addition of these words has changed the meaning of this clause. These words were inserted at my instance in the Select Committees and the reason for that was this. The view that we took was that the presumption should not be irrebuttable. At times, it may so happen that the Registration Officer may be in collusion with the party. So many things may happen. One can never avoid all these litigations by being unfair to people. A legal presumption is

\* For text of amendment vide col. 1061 *supra*.

always rebuttable. Therefore, even if you omit these words, there will be no difference but it was considered better to insert these words by way of abundant caution.

SHRI H. V. PATASKAR: The only reason why these words were added was that it was felt that somebody might say that "shall presume" may not have the same meaning as is to be found in the Evidence Act. As a matter of caution these words have been put in; otherwise, there is nothing special. The definition of "shall presume" may be argued to mean "shall presume wherever it is directed by this Act". "Shall presume" is defined like, this : "may. presume, shall presume, and conclusive proof". These are the three categories. So, we have said that the Court shall presume, unless and unfit it is disproved. As a matter of abundant caution, we thought it better to put in these words. Mr. Bisht can examine the Evidence Act, if he has got it handy, can carefully examine it and he will find there, "wherever it is directed by this Act, the Court shall presume". So, we thought, instead of leaving it vague like that, it would be better to introduce these words.

SHRI J. S. BISHT : He accepts that it is redundant. I beg for leave to j withdraw this amendment.

•Amendment No. 11 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 16 stand part of the Bill."

The motion was adopted.

Clause 16 was added to the Bill.

Clause 17 was added to the Bill.

Clause 18—*Maintenance of wife*

SHRI J. S. BISHT: Sir, I beg to move :

12. "That at page 7, lines 20-21, for the words 'it will *Toe* harmful or

\*For text of amendment, vide col. 8t s"fa.

injurious to live with her husband' the words 'her life is in imminent danger' be substituted."

13. "That at page 7, line 23 be deleted."

14. "That at page 7, lines 28 and 29 be deleted."

SHRI V. K. DHAGE: Sir, I beg to move :

26. "That at page 7,—

(i) in line 10, after the word 'wife' the words 'or husband' be inserted; and

(ii) in line 13, after the word 'husband' the words 'or his wife' be inserted."

27. "That at page 7.—

(i) in line 14, after the word 'wife' the words 'or husband' be inserted; and

(ii) in line 15, after the word 'husband' the words 'or his wife' be inserted."

28. "That at page 7,- -

(i) in line 19, after the word 'he' the words 'or she' be inserted."

(ii) in line 17, after the word 'her' the words 'or him' be inserted and for the words 'her consent' the words 'her or his con-sent, be substituted; and

(iii) in line 18, for the words 'her wish, or of wilfully neglecting her' the words 'her or his wish, or of wilfully neglecting her or him' be substituted."

29. "That at page 7 —

'he' the word 'she' and after (i) in line 19. after the word the word 'her' the words 'or him' be inserted:

(ii) in line 20, after the word 'her' the words 'or his' be inserted; and

[Shri V. K. Dhage.]

(iii) in line 21, after the words 'her husband' the words 'or his wife' be inserted."

30. "That at page 7, line 22, after the word 'he' the words 'or she' be inserted."

31. "That at page 7, for line 23, the following be substituted, name-ly:-

'(d) if she keeps a paramour in the same house or in which her husband is living or habitually resides with a paramour elsewhere;'

32. "That at page 7, line 26. after the word 'he' the words 'or she' be inserted."

33. "That at page 7, line 28, after the word 'her' the words 'or his' be inserted."

(Amendment No. 59 was not moved).

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

SHRI J. S. BISHT: Sir, this clause 18 is beautifully vague and it is one of those clauses that will lead to too much of litigation. It is the duty of this Government to see that there should be as little of litigation as possible.

Sub-clause (2) (b) of clause 18 says, "if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband". This is very difficult because what will cause an apprehension in her mind that it will be harmful or injurious to live with her husband is difficult to define. It is not said whether it will be physical injury or mental injury or some moral injury. All these are difficult points. That is why I have said in my amendment, the words, "her life is in imminent danger". If there is a reasonable apprehension in her mind that

her life is in imminent danger then she should be entitled to live separately. That alone should be the cause because this could be proved easily by the evidence of the neighbours and relatives. So I would submit that this reasonable apprehension should in fact be a reasonable apprehension and mere harmfulness should not be sufficient.

With regard to sub-clause 2(d), it says 'if he has any other wife living'. This in fact is very wrong; at least for another ten or fifteen years as long as the old people who have got more than one wife living are there it is not proper to arm these wives with this sort of additional weapon in their hands. It is much better to nullify all these marriages rather than put them into this awkward position.

Then sub-clause (g) says, 'if there is any other cause justifying her living separately'. If there is any cause she should go under the Marriage Act and apply for judicial separation and alimony and all that sort of thing. Here it only says, "if there is any other cause justifying her living separately." There may be thousands of causes that may be invented tomorrow and then until the law crystallises by judicial decisions over a period of 30 or 40 years, you will leave all these so vague. There is no other system of law which gives such wide and unfettered powers and which so to say opens the flood gates to litigation. I therefore submit that subclauses (d) and (g) should be deleted.

SHRI V. K. DHAGE: Sir, the general trend of my amendments is to put the woman and the man on an equal footing. I do not understand why some of the people, as has been disclosed here, in the Select Committee did not accept the proposition of accepting maintenance from the wife if the wife was the guilty party. We have provided in the Hindu Marriage Act that if the wife has sought separation from the husband and the marriage has been dissolved, maintenance or alimony as it is called generally is payable to the husband if the wife has sufficient means to do so. If

that be the case, I do not understand why that should not be followed up in this maintenance clause here. It seems to me that all the advantages are to be given to the wife but no advantage is to be given to the husband. You will find here that the conditions which are provided for separation which will entitle a wife to have maintenance are mentioned. One of them says, 'if he is suffering from a virulent form of leprosy'. Does it mean that only men would suffer from leprosy and not women? Should not that be a cause for a husband to claim separation from the wife? It looks as if it only means to say that no disease shall be suffered from by a woman. This seems to be really a very illogical proposition. Look at the next condition which says, 'if he is guilty of desertion, that is to say, of abandoning her without reasonable cause and without her consent or against her wish'. If the wife runs away from the husband, what is the husband to do?

SHRI H. P. SAKSENA (Uttar Pradesh): Ring up the police.

SHRI V. K. DHAGE: I do not know whether the police will be able to help him to get maintenance.

DR. SHRIMATI SEETA PARMANAND: He can file a suit for divorce.

SHRI V. K. DHAGE: I cannot understand why the husband should not be given the same advantage as the wife possesses. The other clause says, 'if he has treated her with such cruelty.....' and so on. Do you mean to say that the wife is not capable of being cruel if the husband is a very simple man? There are cases: I can assure you that there are cases where wives practise much more cruelty than the husbands.

SHRI J. S. BISHT: Yes; yes.

SHRI V. K. DHAGE: They even go to the extent of driving the husband to commit suicide. Why do you think that the woman is just a simple innocent being? It is not so: it is really a mistaken opinion of human

nature. Man and woman, both are capable of practising every kind of cruelty. I cannot understand this imaginativeness of people who think that man alone is capable of mischief, as if man alone can be adulterous, as if women cannot be adulterous. There are many cases and anyone who practises criminal law will be able to understand what really is happening. We are in charge of certain institutions where we have to take care of rescued women, but how many women try to remain there and how many women run away from there? I do not want to deprecate what the social reformers are doing but what I mean to say is that the mischief is being played equally by women as is being played by men. I fail to understand why relief in such cases is not given where the wife happens to be the guilty party, why the husband cannot be given equal relief with the wife. I have nothing to say against relief being given to the wife or to the woman but my point is what about the husband? Is he such a miserable creature that he cannot even deserve your sympathy?

MR. DEPUTY CHAIRMAN: Yes; that will do.

SHRI V. K. DHAGE: I have not yet finished, Sir. Now, look at the other clause; 'if he has ceased to be a Hindu by conversion to another religion'. Is there anything to prevent a wife from being converted to another religion? What happens to the husband if she runs away with a paramour and becomes a non-Hindu? what is the husband to do?

SHRI H. C. DASAPPA: She cannot claim maintenance then.

SHRI V. K. DHAGE: But the point is, is she not capable of keeping a paramour? Is the husband alone capable of keeping a concubine? If she has sufficient means, I cannot understand why this maintenance should be denied to the poor man unless it is thought that man alone is capable of all mischief and cruelty. I think therefore that the amendments that I have given notice of are to bring both man

[Shri V. K. Dhage.]

and woman on a par. They are very sensible and equitable and I feel that they should be accepted.

SHRI H. V. PATASKAR: There are two aspects to this question. So far as the question of equality between man and woman is concerned, there is some justification in what he has said. But as a matter of fact, it must be said that we have not economically reached the stage for the wife to give maintenance to the husband. The time has yet to come. There are numerous wives today who have to depend upon the mercy and goodwill of their husbands for maintenance but very few husbands would want to have it. Again, as he must have heard yesterday, there are many hon. Members, even of this House, who would even refuse to contemplate the idea of their being maintained by their wives; rightly or wrongly, that is a different matter, but that only shows that that stage of society has not yet arrived. Therefore with all my sympathy for the objects with which he has moved his amendments, in so far as this Bill is concerned, I am unable to accept any of these amendments.

Then there are technical reasons for it. He will find that the very heading of the Chapter is Maintenance of wife. There is no provision for maintenance of husbands. If and when such a thing comes up before the House, that will be the time to consider how it should be done, what parity should be given and all that. There will be someone who will come long after me.

DR. R. P. DUBE: On a point of information, you have accepted the principle of giving maintenance to the husband in the Succession Act.

SHRI H. V. PATASKAR: This Bill, as I have said, provides only for maintenance of wife. The question of providing maintenance of husband was not at all mooted or considered by the framers of the Bill or by the Select Committee. If and when such a stage in society is reached,

perhaps on account of social and economic conditions, and if it is found that such a provision is necessary, it could be considered at that time.

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Pradesh): The Constitution has provided for equality of sexes.

MR. DEPUTY CHAIRMAN:  
Do not bring in the Constitution here.

SHRI H. V. PATASKAR: Constitution is another thing. This Bill is brought forward with a specific object and there is no question of equality here so far as this Bill is concerned. *(Interruption)* I am sorry that, except for the enthusiasm of Dr. Dube and of Mr. Dhage, I have not come across anybody else who has taken up this idea.

SHRI R. U. AGNIBHOJ (Madhya Pradesh): Is it not against the self-respect of man to demand maintenance from ladies?

SHRI H. V. PATASKAR: I am not here going into the merits of the question as to whether it is proper or improper. That is a different thing altogether. I think it is much better to wait for that state of society when we will do that. Probably you and I may not be there. Then, Sir.

SHRI KAILASH BIHARI LALL (Bihar): May I say to the hon. Minister that it is not a question of sentiment of man. It is a question of law that is being framed.

SHRI H. V. PATASKAR: On whose side is he speaking now?

MR. DEPUTY CHAIRMAN: What about Mr. Bisht's amendments?

SHRI H. V. PATASKAR: I think this clause deals only with the maintenance of wife. If and when the question of maintenance of husband comes to be considered subsequently, probably all these matters will be considered. Then, Sir, when I am disposing of this, there is another hon. friend of mine who says that instead

of saying, if he has treated her with , such cruelty as to cause a reasonable / apprehension in her mind that it will i be harmful or injurious to live with i her husband, he can only be satisfied if she is in imminent danger. Till that time she must suffer. I do not know what is the basis of it.

SHRI P. N. SAPRU: It is quite in accordance with the law relating to cruelty in all parts of the modern world, and not only in this country. Mental cruelty is worse than other forms of cruelty.

SHRI H. V. PATASKAR: I think in view of the expression of opinion on the other side by some hon. friends, at lea.-r my hon. friend, Mr. Bisht, will not Kame me for not being able to accept his amendment.

SHRI J. S. BISHT: What about sub-clauses (d) and (g).

SHRI H. C. DASAPPA: It is already the law in Mysore.

MR. DEPUTY CHAIRMAN: Sub-clause (g) "if there is any other cause justifying her living separately.", he says it is very vague.

SHRI H. V. PATASKAR: I find that it is not altogether a new thing. There are similar provisions in the other Bills which have already been passed. I believe it gives only a discretion, because we have not been able to exactly categorise all those cases in which she would be entitled to maintenance. We say that if there is any other cause justifying her living separately, it may be decided by the court itself. I believe this is a usual provision. It is there also in the other Acts. You will find that as early as 1946 there was the Hindu Married Women's Right to Separate Residence: and Maintenance Act. Under certain circumstances, there also the clause allows for any other justifiable cause.

MR. DEPUTY CHAIRMAN: So, you are not accepting any of the amendments.

SHRI H. V. PATASKAR: No, Sir.

MR. DEPUTY CHAIRMAN: The question is :

12. "That at page 7, lines 20-21, for the words 'it will be harmful or injurious to live with her husband' the words 'her life is in imminent danger\*' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: -The question is :

13. "That at page 7, line 23 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

14. "That at page 7, lines 28 and 29 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

26. "That at page 7,—

(i) in line 10, after the word 'wife' the words 'or husband' be inserted; and

(ii) in line 13, after the words 'husband' the words 'or his wife' be inserted.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

27. "That at page 7—

(i) in line 14, after the word 'wife' the words 'or husband' be inserted: and

(ii) in line 15, after the word 'husband' the words 'or his wife' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

28. "That at page 7,—

(i) in line 16, after the word 'he' the words 'or she' be inserted;

(ii) in line 17, after the word 'her' the words 'or him' be inserted and for the words 'her consent' the words 'her or his consent' be substituted; and

(iii) in line 18, for the words 'her wish, or of wilfully neglecting her' the words 'her or his wish, or of wilfully neglecting her or him' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

29. "That at page 7—

(i) in line 19, after the word 'he' the word 'she' and after the word 'her' the words 'or him' be inserted;

(ii) in line 20, after the word 'her' the words 'or his' be inserted; and

(iii) in line 21, after the words 'her husband' the words 'or his wife' be inserted.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

30. "That at page 7, line 22 after the word 'he' the words 'or she' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

31. "That at page 7, for line 23, the following be substituted, namely :-

'(d) if she keeps a paramour in the same house or in which her

husband is living or habitually resides with a paramour elsewhere'."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

32. "That at page 7 line 26, after the word 'he' the words 'or she' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

33. "That at page 7, line 28. after the word 'her' the words 'or his' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: . The question is :

"That clause 18 stand part of the Bill."

The motion was negatived.

Clause 18 was added to the Bill.

*Clause 19—Maintenance of widowed daughter-in-law*

SHRI C. P. PARIKH: Sir. I move :

44. "That at page 8. lines 8 to 10, the words 'from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share' be deleted."

MR. DEPUTY CHAIRMAN:  
The clause and the amendment are before the House.

SHRI C. P. PARIKH: With regard to this amendment, it is very clear that a Hindu wife shall be entitled to be maintained after the death of her husband. Sub-clause (1) is thought fit to provide for it. By sub-clause (2) any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession, etc. I say what about separate property? What happens to it? I think these words are unnecessary.



"from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share". Only the coparcenary property will be liable. But the question will arise as regards the separate property if the father-in-law has not the means to do so. It must be mentioned here or it should be deleted.

MR. DEPUTY CHAIRMAN: We are concerned only with coparcenary property, not separate property.

SHRI C. P. PARIKH: But if he has not the means to do so from separate property, one should not be entitled.

SHRI H. V. PATASKAR: I think there is a clear misconception. The clause says : "A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law." The present law is that the father-in-law has got the liability to maintain the daughter-in-law provided there is some joint family property, provided she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance—

(a) from the estate of her husband or her father or mother, or

(b) from her son or daughter, if any, or his or her estate;

(2) Any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share, and any such obligation shall cease on the remarriage of the daughter-in-law." I think it is a perfectly clear clause.

MR. DEPUTY CHAIRMAN: You are not prepared to accept it.

SHRI H. V. PATASKAR: No, Sir.

♦Amendment No. 44 was, by leave, withdrawn.

\*For text of amendment *vide* col. 1074 *supra*.

4—43 Rajya Sabha/56

MR. DEPUTY CHAIRMAN: The question is :

"That clause 19 stand part of the Bill.

The motion was adopted.

Clause 19 was added to the Bill.

Clause 20 was added to the Bill.

*Clause 21—Dependants defined*

DR. P. V. KANE ; Sir, I move :

34. "That at page 9, line 23, after the word 'unmarried' the words 'and is chaste and lives with him or her' be inserted."

35. "That at page 9, line 15, after the word 're-marry' the words 'and in chaste' be inserted."

SHRI V. K. DHAGE : Sir, I move :

36. "That at page 8, line 29, after the word 'widow' the words 'or her widower' and after the word 'she' the words 'or he' be inserted."

MR. DEPUTY CHAIRMAN : The clause and the amendments are before the House.

DR. P. V. KANE: Sir, my amendment relates to clause 21, sub-clause (vii) and (ix). Sub-clause (vii), among the dependants, says: "any widow of his son or of a son of his predeceased son, so long as she does not remarry." I want to add so long as she is chaste. Supposing the widow of the son is unchaste, there will be liability. Therefore, you may compare this with the wife. As regards the wife he has said she won't get maintenance if she is unchaste. What difference is there between the wife and the son's widow? Can she get maintenance if she is not chaste? I do not know. I was not present, but it was in the drafting committee somebody had suggested it. I do not know. That is as regards sub-clause (vii).

Then, as regards sub-clause (ix) "his or her illegitimate daughter, so long as she remains unmarried." You will see the difference. This is a

[Dr. P. V. Kane.] daughter and that is a widow of the son. There I say only "chaste". She need not remain under the roof of the father-in-law. But as regards his or her illegitimate daughter, so long as she remains unmarried, merely being unmarried is not sufficient. She must be chaste and live with him or her. If she is an unmarried and illegitimate daughter, she cannot live away from him or his control and yet claim maintenance. Therefore, I added the words "chaste and lives with him or her". As regards the widow of the son, I simply say "chaste". I think more reasons need not be given.

2 P.M.

SHRI H. V. PATASKAR: Sir, the Select Committee came to the conclusion that the chastity of a particular woman who unfortunately has occasion to claim maintenance should not be specifically mentioned there. It would also be difficult to say if really she is an unchaste daughter-in-law. In many cases probably because of the relationship itself, it may lead to some sort of wrong allegations made against an unfortunate woman. After all, maintenance is a matter which we have to deal with in a different way. The point raised by Dr. Kane was given a good deal of consideration, and for the reasons that I have explained we have come to the conclusion that this expression should not be there.

MR. DEPUTY CHAIRMAN: The question is :

34. "That at page 9, line 23, after the word 'unmarried' the words 'and is chaste and lives with him or her\*' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN:  
The question is :

35. "That at page 9, line 15, after the word 're-marry' the words 'and is chaste' be inserted."

The motion was negatived.

(Amendment No. 36 barred.)

MR. DEPUTY CHAIRMAN:  
The question is :

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

#### *Clause 22—Maintenance of dependants*

SHRI C. P. PARIKH: Sir, I beg to move :

45. "That at page 9, lines 28-29, the words 'after the commencement of this Act' be deleted."

MR. DEPUTY CHAIRMAN:  
Clause 21 and the amendment are now before the House.

SHRI C. P. PARIKH: Sir, I do not understand why in sub-clause (3) those words "after the commencement of this Act" are there. It should be applicable whether it is before the commencement or after the commencement of this Act; the dependants shall be entitled to maintenance in both cases. Why should it be denied to those who claim maintenance after the commencement of this Act? I do not understand that. Either delete the words or put it "before or after\*".

SHRI H. V. PATASKAR: I have not been able to understand your point at all. I want to know what is your difficulty.

SHRI C. P. PARIKH: I have not understood your difficulty in seeing my point.

SHRI H. V. PATASKAR: I have not understood your point.

SHRI C. P. PARIKH: The wording is "where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a Hindu dying after the commencement of this Act, the dependant shall be entitled, subject to the provisions of this Act, to maintenance from those who take the estate." The words "after the commencement of this Act" why should they be there? You are

taking away his rights. These words are unnecessary. Before or after the commencement of the Act the dependant is entitled to maintenance from those who take the estate. I do not understand why it should be put "after the commencement of the Act".

SHRI H. V. PATASKAR: This is in accordance with the scheme of this Act. We gave in the Succession Act powers to make wills. As a result of that we thought that that should not defeat the rights of maintenance. We have now to categorise the dependants. That is why we have said that.

MR. DEPUTY CHAIRMAN:  
I think that wording is necessary.

SHRI C. P. PARIKH: In that case I beg leave to withdraw my amendment.

♦Amendment No. 45 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill.

Clauses 23 to 26 were added to the Bill.

*Clause 27—Maintenance when to be a charge*

SHRI C. P. PARIKH: Sir I beg to move :

46. "That at page 11, lines 11 to 13, for the words 'unless one has been created by the will of the deceased, by a decree of court by agreement between the dependant and the owner of the estate or portion, or otherwise' the words 'unless by agreement between the dependant and the owner of the estate' be substituted."

•For text of amendment *vide* col. 1078 *supra*. I \* For ^,f amendment *vide* col. 1079 *supra*-

MR. DEPUTY CHAIRMAN:  
Clause 27 and the amendment are now open for discussion.

SHRI C. P. PARIKH: Sir, in this also a question of principle is involved. The clause says "a dependants' claim for maintenance under this Act shall not be a charge on the estate of the deceased or any portion thereof, unless one has been created by the will of the deceased, by a decree of court, by agreement between the dependant and the owner of the estate or portion, or otherwise". Even as the clause stands at present, it should not be "portion thereof" but "portion of the estate"—that is immaterial, however, and it is for the Minister to consider. But what I want to state is—"unless one has been created by the will of the deceased"—the deceased cannot debar any person from the right of his maintenance, and here as it is worded it gives a right under this Act to debar the dependant from having his right of maintenance. That should not be. It is said that a dependant's claim shall not be a charge on the estate unless one has been created by the will of the deceased. Why should the will of the deceased be there?

SHRI H. C. DASAPPA: "unless one has been created by the will of the deceased, by a decree of court, by agreement between the dependant and the owner"—it refers only to the charge.

SHRI C. P. PARIKH: Then I beg leave to withdraw my amendment.

♦Amendment No. 46 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is :

"That clause 27 stand part of the Bill."

The motion was adopted. Clause 27 was added to the Bill.

*Clause 28—Effect on transfer of property on right to maintenance.)*

SHRI C. P. PARIKH : Sir, I beg to move :

47. "That at page 11,—

- (i) in line 17, after the words 'if the transferee has' the words 'previous written' be inserted; and

(ii) in line 19, after the word 'without' the words 'previous written\* be inserted."

MR. DEPUTY CHAIRMAN: The Clause and the amendment are before the House.

SHRI C. P. PARIKH: Sir, in both cases the notice should be written notice. The transferee must have written notice. Otherwise how can that stand?

MR. DEPUTY CHAIRMAN. It is the wording in the Transfer of Property Act.

SHRI C. P. PARIKH: Then I beg leave to withdraw my amendment.

Amendment No. 47 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is :

"That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Clauses 29 and 30 were added to the Bill.

Clause 1, the title and the Enacting Formula were added to the Bill.

SHRI H. V. PATASKAR: Sir, I move :

"That the Bill as amended be passed."

MR. DEPUTY CHAIRMAN: Motion moved :

"That the Bill, as amended be passed."

SHRI JASWANT SINGH (Rajasthan): Sir, the hon. Minister has from the start been saying that this is an enabling Bill and that the orthodox people should have a little consideration for the social reformers.

{THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA) in the Chair}

So far to this point no reply has been given. I would reply to this question of the hon. Minister that when somebody is sitting on the fence and wavering, our experience in matters like religion, where ordinarily people will not have the courage to cross the border line, shows that if some encouragement is given, that will be enough support for him or her to cross the barrier. Therefore, in this way even if an enabling law is passed people who are wavering and who are on the border line will cross the line, and that will injure the Hindu religion as such. That is my reply to the question of the hon. Minister. Secondly, I would submit that we orthodox Hindus are prepared to waive our claim provided the Minister gives us an assurance that he would bring forward such enabling laws before this House in regard to other communities also, particularly Muslims. Hindus only are not to be reformed. Other communities have also got their own faults. The other major religion in India next to Hinduism is that of the Muslims. And I would submit to the hon. Minister that he should have the courage to bring in an enabling law in regard to Muslims. And if he gives an assurance that he would bring such a law in the very near future, we would leave our objection. Otherwise, those of us who are orthodox Hindus will feel that an inroad—a serious inroad—has been made into our religious feelings and we are in duty bound to oppose it.

DR. SHRIMATI SEETA PARMA-NAND: Madam, I would like to say a few words in conclusion. It is a good thing that with the passing of this Bill, the last but one portion of the Hindu Code that was to be enacted has been finished so far as the life of the present Parliament is concerned.

It has to be mentioned that certain discrepancies or inconsistent clauses had to be incorporated in this Bill because of the existence of the Hindu joint family system—clauses which are not consistent with the principles under which some rights have been given to women under the Succession Act. I would, for example, mention one thing—that is, the right of a woman to adopt a child if there is a grandson being taken away. Now, as it has been mentioned several times when discussing the Hindu Succession Bill, the modern Hindu family or the joint family system has disappeared in practice. Then, we have accepted the principle of giving the woman the right to adopt a child. This new right of adopting a daughter will not only benefit her, but the child adopted will become to her an object of natural affection. We have given the right of adopting a child even to a bachelor or a maiden.

Madam, this right being given, it is but natural that a widow when she has a grandchild through her own son living, but not staying with her, would like to adopt a child for company. This right we have taken away under the new amendment of Dr. Kunzru because of the continuation of the joint family law under which even the great-grandson has the right to inherit. So, if equal rights are to be given to women, certain inconsistencies which are in this Bill as it is being passed have to be removed and the Government should come forward with the introduction of a Bill for the abolition of the joint Hindu family system. Then only, not only the right of adoption, but the rights given to a woman under the Hindu Succession Act, would be a reality.

Another point which I would say is this. This Bill will certainly be a precursor to the Civil Code. People have already been asking for the incorporation in their personal laws of some of the clauses of the Hindu Marriage Act or the Special Marriage Act. And they would come forward to ask that the law of adoption should be extended to all communities. So, from this

point of view. I would congratulate the Government and the Minister for Legal Affairs for having brought this Bill and passed it.

I would also like to make one suggestion here—rather an appeal—to the other House that, as the Select Committee of this House has gone into this Bill very thoroughly because they did not have time to consider the motion for a Joint Select Committee, they will pass this Bill without delay so that, during the present session of the Parliament, this Bill becomes an Act.

Thank you.

SHRI P. N. SAPRU: Madam Chairman. I would like to take this opportunity of congratulating Shri Pataskar for the able manner in which he has piloted this Bill which breathes his progressive spirit. Shri Pataskar's interpretation of his religion is not as narrow as that of some of our friends here. Hinduism, in the true sense of the word, is a catholic religion and the lack of adjustment to changing conditions which some of our friends—for example, my esteemed friend, Shri Jaswant Singh—displayed is really pathetic. They are, by sticking to orthodox ways, doing the Hindu community which needs to be revitalised, reinvigorated, no good. This is a Bill which has adopted a rational point of view towards the question of adoption. It does not interfere with the religious susceptibilities of any person. After all, it is only a permissive measure. No one is compelled to adopt a daughter if he does not want to do so. But I do hope there will be some who will want to adopt a daughter in preference to a son.

There is just one point which I would like to mention. And it is this. I should have thought that on an occasion like this when we were passing a Bill which concerns the welfare of our womenfolk, women Members (barring, of course, Dr. Shrimati Seeta Parmanand, Shrimati Nallamuthu Ramamurti and Shrimati Anis Kid-wai, who are present in the House), would show this House courtesy by being present on the occasion of the

[Shri P. N. Sapru.] Third Reading. Also I thought that they would show their courtesy by being present when important questions affecting the clauses of the Bill were being considered at the Committee stage.

DR. SHRIMATI SEETA PARMA-NAND: By Madam Chairman's being in the Chair, it is made up.

SHRI P. N. SAPRU: You do not acquire equality by merely talking about equalities. There are certain obligations attached to the concept of equality and I would like our feminist leaders to remember those obligations also.

SHRIMATI T. NALLAMUTHU RAMAMURTI: But that is compensated by the Chair.

SHRI P. N. SAPRU: We have a very high regard for you. But we find that unfortunately, it has become the habit for some of our feminist leaders to come into this Chamber only during question-time, make a speech, then disappear and not even show the courtesy of listening to other people's speeches. Parliament is meant for the purpose of discussion and I think it is essential for women Members—and also for male Members—to remember that they owe a duty towards one another. Madam Vice-Chairman, I have felt constrained to make these remarks because I have been noticing since yesterday that some ladies who were very vociferous in demanding so many things were not even present to listen either to their supporters or to their opponents. Thank you very much.

DR. R. P. DUBE: Thank you, Madam, for giving me this chance to speak. But when I start speaking, I think the hon. Minister and a few other hon. Members may not like my speech at all. That is because, Madam, I have still got my grouse against the hon. Minister who has not given me any reply to the questions that I had raised. I wish he had known women better, because he is an elderly man, and he must know

them. Madam, he is quite aware of that Sanskrit sloka :—

स्त्रियः चरित्रं पुरुषस्य भाष्यं ।  
देवो न जानाति कुतो मनुष्यः ॥

(Interruptions.)

Please do not disturb me. Let me have my say.

SHRI JASPAT ROY KAPOOR: Do not quarrel with ladies.

DR. R. P. DUBE: Sir, there is another hon. Member who said that the orthodox people are against the provisions of this Bill. I can frankly tell my friend that I have never been orthodox and I will never be orthodox. So, Madam, it is not a question of orthodox people opposing it. We have opposed it on principle.

I dare say that the hon. Members who want to press their opinion must consider the others' point of view as well, and there should be that spirit of give and take. But what do we find here? We find that the Government wants to push through this measure hastily. And when such measures go to the other House, they are chopped and clipped and brought back here. My question is : Why don't you give us the opportunity of discussing it fully? Why don't you give us sufficient time to discuss such important measures which are introduced in this House? Madam, as it well-known, this is one of the most important measures which affect the whole of the Hindu society radically. And it is surprising that the time allotted for this measure is only seven hours. The Hindu law which has remained there for centuries is intended to be changed radically only a matter of seven hours. You are changing the whole of the Hindu society by this Bill, and you have allotted only seven hours.

DR. SHRIMATI SEETA PARMA-NAND: How many hours do you think should have been allotted?

DR. R. P. DUBE: Will the Hon. Member kindly keep quiet? I really want to know why she can't keep quiet. I just want you to keep quiet

for a little while and allow others to have their say. Nobody disturbed when you were speaking. At least I have disturbed you. Similarly I expect you not to disturb me. You want equality. Have it by all means, but try to preserve it, lest you should lose it.

THE VICE-CHAIRMAN (SHRI MATI SHARDA BHARGAVA): Please continue your speech.

DR. R. P. DUBE: Madam, I was saying that I had put a few questions to the hon. Minister yesterday, but they have not been replied to. I cannot understand why I should not be able to get any rational or any reasonable reply from the Government. After all, Madam, I am not a mule. I can understand things very well, and therefore I must be given satisfactory replies when I am raising certain points. Personally, Madam, I do not think -that the way in which these things are being done, is a correct way of doing things. Thank you very much.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Well, I am very grateful to you, Madam, for allowing me this chance of expressing the gratitude of all the Members of this House to our revered hon. Minister. Shri Pataskar, for having piloted this Hindu Adoptions and Maintenance Bill so patiently, so ably, and with so much understanding of all the points of view expressed in this House and elsewhere. He has always tried to help the progressive direction in which we have legislated in this House and in the other House for the welfare and advancement of the women of this land.

There might be, as has been pointed out by some Members here, some little things here and there that might be modified or reconsidered. On that basis, I think no law in this world can be perfect. If that is not so, we would not here stand and say that this thing has not been done or that thing has not been done or provided for in the Bill. I want to record here our thanks, the women's thanks, for having allowed the wife to adopt and

having allowed the daughter to be adopted. So, there should also be the extension of that genealogical line for purposes of adoption. As in the case of son's son and grandson, so also the daughter's progeny should be provided for. And after all, Madam why should there be any difference on that score? The Constitution also has recognised the principle of equality.

*(Time bell rings.)*

I quite see. and I should be feeling a little apologetic also for the fact, that some of our sister Members were not. rather could not, be present when the discussions were going on. But you know what Delhi is today. It is full of various commitments and functions from which probably they could not escape, not that they were not interested in this Bill. Madam. I can assure you that every one of them is vitally interested in such important measures, and had they been here,, they would certainly have caken the floor of the House or listened, one and all of them, with zest and zeal. So, I feel that their absence does not mean that they had not been interested in listening to the debate.

One word more, Madam. We feel very grateful to Shri Sapru who worked as Chairman of the Select Committee and conducted the deliberations of that Committee.

*(Time bell rings.)*

I have nearly finished, Madam. I would simply quote what Mahatma Gandhi, the Father of the Nation, declared with regard to women's, rights? He says:

"I am uncompromising in the matter of woman's rights. In my opinion, she should labour under no legal disability not suffered by man. I should treat the sons and daughters on a footing of perfect equality. Women must have votes, and an equal status. But the problem does not end there. It only commences at the point where women begin to affect the political deliberaions of the Nation."

[Shrimati T. Nallamuthu Rama-murti.]  
Therefore, Madam, Shri Sapru is quite right in saying that we should continue to participate wholeheartedly and continuously in the deliberations for rebuilding our nation. Thank you very much.

(Some hon. Members rose to speak.)

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): We have to finish this Bill by 2-30. The time fixed was 2-30.

SHRI S. N. MAZUMDAR (West Bengal): Madam Vice-Chairman, from our side hardly anybody has spoken. Therefore I would like to make some observation . . .

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): All right, two minutes each.

SHRI S. N. MAZUMDAR: Madam Vice-Chairman, I could not be present during the discussion of the whole Bill. Still, in all pieces of legislation concerning the Hindu Code reforms I have been taking a very active interest. That is the reason why, when I was here, I thought I should give my support and blessings to the Bill even at this late hour.

Madam, I am very glad that this has been passed by this House and this shows—the smoothness with which the different instalments of the Hindu Code have been passed during the life of this Parliament—what a considerable change has taken place in the outlook of the people and in the social outlook. Formerly there was much hue and cry about it. This shows that this piece of legislation has been placed on the anvil of the legislature and is going to be passed by this House and the other as well as not only because of the enthusiasm of certain feminists, as they were called by Dr. Sapru, but because there has been a change in social outlook and the opinion of the Government. We hope that this Bill will go a long way in eliminating the discrimination and the inequality from which women in the Hindu society were suffering. I don't like to take

much time of the House but I shall say that I am glad that these Bills were introduced in the Rajya Sabha and the Rajya Sabha has done, from that point of view at least, a lot towards the cause of social reforms and its existence has been justified, not in any other way, but for this the Rajya Sabha took the lead in passing these Bills. I would have been still more glad if Mr. Pataskar could have come forward during the life of this Parliament itself with a consolidated Hindu Code as he had promised earlier. With these few words, I give this Bill my support.

SHRI V. K. DHAGE. Madam, Vice-Chairman, I would not take much time but I shall only say this that we have taken a step forward and probably a big step forward and perhaps in this House I have not been able to take the other Members a further step forward but with the sympathy for my amendment that the hon. Minister gave—and he was not able to contradict me but he thought that this was not the proper time to move that much forward—I do hope that he will be able to come forward with a measure immediately the urgency or need for it arises. However I should congratulate him for having been very patient, calm and considerate in the matter of piloting this Bill. He never was excited even though there was reason for him to get provoked but he did maintain his calmness and he piloted the Bill very efficiently. I may agree with Dr. Sapru in passing some remarks with regard to ladies that they were not present here during the debate but he forgets that there were men here in whom they had such a confidence that their absence did not affect the passing of this measure which was principally for the benefit of the women. That only shows that our womenfolk have not lost confidence in men yet. Whatever they may say with regard to men, they still have the faith that the men are fairminded, are just and that they will do the right by them whenever it is necessary. But the only thing that I felt was that some of the Lady Members, when the matter came to a rational



basis, probably could not maintain that much of rationality which I "would expect from them when the matter came to be on par with men. However I will not dwell upon that but I shall offer once again my congratulations to Mr. Pataskar for having taken this step forward and for having piloted the Bill very calmly, patiently and with very great consideration.

डा० पी० सी० मित्रा (बिहार) मुझे यह पूछना है कि इस बिल से एडवांटेज किसको होगा ? इससे सिर्फ जो पब्लिक वुमेन है उसकोही "एडवांटेज होगा और किसी को नहीं होगा क्योंकि जब वह पकड़ी जायगी तो बोलेगी कि यह तो हमारी एडवांटेज डाक्टर है । तो इस बिल से यही एडवांटेज होगा । इतना ही मुझे कहना है ।

श्रीमती उपसभाध्यक्षा (श्रीमती शारदा भार्गव) : यह तो आप पहले भी कह चुके थे ।

SHRI H. V. PATASKAR: Madam, I am very grateful to the House for having accorded its support. Of course criticism is inevitable in matters like this and I don't take them in any other spirit except that. Naturally as opinions differ, criticism is bound to be there but I am grateful to-day for one thing—the question of the social reform among Hindus which was tried to be effected for so many years past by various Committees and Commissions appointed, by several attempts made to have legislations and enactments with respect to some of those things. Ultimately we decided to take it in parts and this is the last part which we are going through during the life-time of this Parliament. Of course I know that this House continues but the other House does Not. By Parliament, I mean both the Houses as they are constituted today. Therefore this is to my mind, as I anticipated, the last part of that Code which is being passed today. I must say and congratulate and be grateful also to hon. Members belonging to all sections of the House who have in one form or another helped us in passing this important piece of legislation. As I said earlier, so far as this part is concerned, it was inevitable that after having passed the Indian Succession Act and the

Hindu Marriage Act we should pass without delay that part relating to the law of adoption and maintenance.

Turning to the last point first, of maintenance, you will find that there has not been much of even criticism so far as these parts are concerned. Even as regards adoption, even by accepting the amendment, which I thought I should accept consistently with the principle which I kept before my eyes while having this legislation passed, was that in a matter like this, I should try to respect the sentiments reasonably of everyone. Now the hon. Mr. Kishen Chand, it really pains me to find, still does not feel that we have not been trying to preserve the freedom of action even to those sections of the Hindus who regard themselves as orthodox. I don't know what is meant by orthodox section.

SHRI V. K. DHAGE: You mean Mr. Jaswant Singh?

SHRI H. V. PATASKAR: Yes. I regard myself as an orthodox Hindu. What is there? What is being done in this Bill which would even shock the sentiments of an orthodox Hindu? I was waiting all the time, listening as much as I could, to some arguments which will show me the error which I am committing so far as this Bill is concerned, which prevented a man who was a most orthodox man, whatever it may be meaning, and who wanted to carry on the old ideas so far as adoption is concerned and who wanted to stick to his own beliefs. There is nothing like it. I would say one thing. What is the objection? I have again tried to analyse it and I would like to make it clear that the only thing probably which has agitated the minds of the so-called orthodox people is why a daughter is being allowed to be adopted by a Hindu.

I will come to the other point next. This is a Hindu Law which deals with Hindus and naturally it is there that we provide that she should be adopted. What is the position? Is it not orthodox also that a daughter should be adopted? As I pointed out

[Shri H. V. Pataskar.]

and I would not go over the past again, but because of some misunderstanding, I would like to make it clear that there is the *Dattaka Meemamsa* and there is, the *Sanskar Kaustubha*—all ancient books. They have nothing to do with anything that a profane man, supposing I am one, is doing. They laid down these rules allowing the adoption of daughters and they encouraged such things. Take, for example, the case of Shri Ram's own sister, the sister of Prabhu Ramchandran whom we all worship, whom the most orthodox regard as God. His own sister, born of King Dasaratha was given in adoption. So there is nothing profane in what we have suggested. Even in those days it was the right thing to do. There was some Lohapada or somebody—I do not exactly remember his name. He had no issue and there was the natural craving and so Dasaratha was good enough to give his own daughter in adoption to him. There are so many such instances in the past. Who says orthodox people were not doing it. They may not be doing it during the last 50 years or so and that is because the real Hindu law was not there and it was Hindu law as we took it to be. What we now consider as the orthodox Hindu law is just some decisions by people who did not know much of the basis of real Hindu law; still we accept their decisions. We accept them and still regard ourselves as orthodox and therefore we have got all these difficulties. I will try to bring to the notice of hon. Members here that in the city of Poona an orthodox Shastry by name Rahuji Shastry of Poona—and let me add that in the nineteenth century this place was the centre of culture or *Sanskriti*—adopted a daughter and that matter went to the court. The Indian judges came to the conclusion that *Dattaka Meemamsa* and *Sanskar Kaustubha*—and they are not Acts of Parliament—justified the adoption of the daughter.

SHRI J. S. BISHT: But how many people are governed by the *Dattaka Meemamsa*? The whole of India is

governed by the *Mitakshara* Law and the *Dayabhaga* Law.

SHRI H. V. PATASKAR: I will come to that also, let not my hon. friend get excited. Any way he will agree that *Dattaka Meemamsa* or the *Sanskar Kaustubha* are not Acts of Parliament. The *Dattaka Meemamsa* was followed by large sections of orthodox Hindus.

DR. P. C. MITRA: Orthodox means conservative.

SHRI H. V. PATASKAR: What are we trying to do now? Suppose there are some people who do not want to adopt a daughter, do we object to that? Now a daughter is not adopted in Poona because one Mr. Parson, Judge of the High Court of Bombay who knew very little of our ancient culture and heritage, preferred to follow some other course and we have accepted it. So I say there is no violation of anything here. There is no violation against orthodoxy here. The whole point is, in India there is variation with regard to these things and it cannot be denied that daughters were being adopted in certain parts of the country, not only in Malabar where the matriarchal system prevailed, but in other parts also. Here there is no question of orthodoxy. What after all are we trying to do? We have accepted what Parson decided without grumbling. Nobody, no Shastry, ever objected to it. And now, if you do not like to adopt, do not adopt. There is no interference with any religious or other sentiments. I would appeal to my hon. Friends and submit to them that orthodoxy or non-orthodoxy has nothing to do with what we are doing here. We have decided certain things—after taking into consideration everything that we should, for the purpose of an enactment of this kind.

The other point to which I have not yet got a reply is this. What is there in this measure which comes in the way of anybody's belief? Suppose there is a man who believes in *Mitakshara* or in any other thing. Suppose he does not want to adopt a daughter.

Let him not; I have no objection. Nothing here prevents him from adopting a son if that is what he wants to do. But there are certain sections of Hindus who want to adopt a daughter and if there is such a provision as this in the Bill, does it pollute it? Is this provision to be an untouchable?

DR. P. C. MITRA: What is the definition of a Hindu then?

SHRI H. V. PATASKAR: We are only making a provision for those who may want to- adopt a daughter In the year 1956. should we not be tolerant enough to allow a person to adopt a daughter if he wants to do so? Is there anything there which interferes with other sections of the law? If so, there could be some objection. Therefore, I would only appeal to hon. Members and humbly request them, Mr. Bisht and others, to just look at this thing a little more dispassionately and without prejudice and then, I am sure they will come to the conclusion that this does not in any way violate anybody's sentiments in this matter at all.

Then my doctor friend over there I will try to convince, though I do not know if I will succeed in my attempt. He feels in a particular way and of course, everybody has the right to feel in his own way. He has proclaimed that he is not orthodox and he asks : "Why should a spinster be allowed to adopt?" I would only like him to consider calmly this question. Is there any reason why she should be prevented from adopting a child?

DR. R. P. DUBE: I am putting this proposition to the hon. Minister.

SHRI H. V. PATASKAR: I am putting this proposition to him which merits consideration. Should a spinster not be allowed to adopt? It may be that some people may regard spinsters and bachelors as some abnormalities. But there are some bachelors who are very eminent and there may also be spinsters who are very eminent in their own way. Therefore I

do not think that it is proper that anybody should be prevented from adopting.

DR. R. P. DUBE: But my point is this. Suppose a spinster adopts. I do not object to her adopting. But suppose after adopting a child she gets married and has a child born to herself. Then what is to happen to the child who had been adopted? I am not at all against a spinster adopting. Let her adopt not one, but ten. So also let the man, the bachelor adopt as many as he wants. But what is to happen to the adopted children after the adopting father or mother gets married and has a child born?

SHRI H. V. PATASKAR: The doctor seems to get a little excited.

DR. R. P. DUBE: Not at all, it is only my way of speaking.

SHRI H. V. PATASKAR: In this Bill it is made clear that the adopted child gets no right by itself. That is specifically provided. Merely because a man adopts a child, whether it is a spinster or a bachelor who adopts the child, he or she loses no rights so far as the property etc. are concerned. Adoption hereafter, will be more or less a matter of mutual affection and so on. If a spinster adopts first and then marries, or if it is a childless widow who adopts a child and then marries and gets a child born, what is to happen? Such things have to be best adjusted between the parties. The spinster is also like any other woman. like a widow, and if she adopts first and then marries, what will happen? We have here split the connection between property and adoption which is merely a secular act. If this spinster adopts first and then marries subsequently what happens? She will carry the child with her.

Tf he looks through the provisions very carefully, provisions that we have already made in regard to marriage, relating to succession and relating to property, he will find that there is no justification. *(Interruption.)* I would admit that I am unable to satisfy him. That is the only thing that I can say.

[Shri H. V. Patskar.]

I would again express my thanks for the way in which this Bill in spite of differences has been received and considered. It has been very thoroughly discussed in this House. Every point of view was considered. Of course, there are differences: for instance. I am unable to understand the difficulty of my friend. Dr. Mitra. I do not see what connection there is between the Suppression of Immoral Traffic Bill and this. That Bill can be discussed later on and the hon. Member will have an opportunity then. He seems to be under the impression that a person will adopt and use that adoption for immoral purposes.

DR. P. C. MITRA: No, not for immoral purpose. What I said was that a public woman will take advantage of this when she is arrested.

SHRI H. V. PATASKAR: I do not think so. Anyway, that Bill is yet to come and his suggestions will be duly considered then.

I thank the Members for the way in which they have accorded their consent to this measure.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

# **THE ABDUCTED PERSONS (RECOVERY AND RESTORATION) CONTINUANCE BILL, 1956**

THE MINISTER FOR WORKS, HOUSING AND SUPPLY (SARDAR SWARAN SINGH): Madam, I beg to move :

"That the Bill to continue the Abducted Persons (Recovery and Restoration) Act, 1949, for a further period, as passed by the Lok Sabha, be taken into consideration."

This Act under which the recoveries take place and the recovered persons are brought to neutral camps and permitted to meet their relatives —and whatever decision is taken is taken in accordance with their wishes —is due to expire on the 30th November this year, that is, tomorrow. By this measure, it is sought to extend the life of this Act for one year more. There are two reasons for this step : One, the work that is being done of recovery and restoration in accordance with the wishes of the person recovered has not yet been finished. A Commission had been appointed in which both the countries of India and Pakistan were represented to examine the volume of work that still remains undone and to suggest means for expediting that work. The Commission have carried on certain investigations; two officers were appointed to assist that Commission. They have collected certain material but the Commission as such has not yet put in any report. The representatives of the Government of India and the Government of Pakistan discussed this question in July last and came to the conclusion that the work should be continued and that the Commission should be asked to submit their report. That report has not yet been submitted. The work is, therefore, yet to be carried on. I am aware of the feeling that exists in the country and also among certain sections of Parliament that this work has been going on for a very long time and that the time has now arrived when we should finish that work. There is considerable force in that argument; on the other hand, it has to be remembered that the way that provisions of this enactment are being worked does not put anyone to any disadvantage and the person recovered, after recovery, is actually free to decide about his or her future. The will and the wish expressed by that person is the criterion for a decision as to what should be done. I have circularised a small brochure which gives certain facts and statistics indicating the manner in which the recovery organisation has functioned. I would draw the attention